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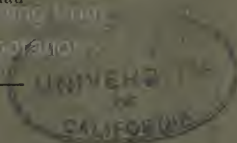
# PERMANENT STATE TAX COMMISSIONS

A Comparative Digest of  
State Legislation

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Compiled by  
SVEINBJORN JOHNSON

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Bulletin No. 1

BISMARCK  
1910

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1910



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Legislative Reference  
Librarian

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# Bulletin No. 1

## BISMARCK

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LEGISLATIVE REFERENCE DEPARTMENT.

Sveinbjørn Johnson, Legislative Reference Librarian.

It shall be the duty of the library commission to maintain a legislative reference department for the information and assistance of the members of the legislature. The legislation of other states and information upon legal questions shall be classified and catalogued in such a way as to render the same easy of access to members, thereby enabling them better to prepare for their work. Laws of 1909, chapter 156, section 5.

In accordance with the foregoing enactment, this bulletin is issued by the Legislative Reference Department of the North Dakota Public Library Commission.

MRS. MINNIE CLARKE BUDLONG,

Secretary of the Commission and Director of  
Library Extension.

ALBIONIA

As required by the law of 1909, the legislative reference department has been collecting and classifying material on questions of public interest in this state. The question of taxation and state tax commission has for some time been receiving no little attention and during the last session of the legislature a bill was presented providing for the creation of the office of state tax commissioner. Members appeared much interested in the matter and many demands were made upon this department for information relating to tax commissions in other states. The county commissioners at their meeting at Fargo in March, 1908, resolved in favor of a state tax commission. This, therefore, is a matter of considerable public interest and seems likely to come before the legislatures in the future.

To make the bulletin of the greatest practical value to lawmakers and the public, notes have been made of criticisms of different laws by the men who administer them, the commissioners, and syllabi of judicial decisions, where acts have been construed or declared void by the courts, have been included. North Dakota may thus profit by the judicial as well as the administrative experience of other states in this field. As means permit, other public questions will be dealt with in like manner.

SVEINBJORN JOHNSON,  
Legislative Reference Librarian.

THE END  
OF THE  
WORLD



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## INTRODUCTORY

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### GENERAL PROPERTY TAX.

The general property tax is at once the most common and the most condemned tax in the United States. It is used in every state except Delaware.<sup>1</sup> It has been under the fire of hostile criticism for decades and no signs of abatement are visible. As the activities of state governments broadened and more revenues must be provided to keep pace with an ever increasing expenditure, the older states began to see in bolder relief some of the evils of the system. State officers, whose duties brought them in close contact with the actual operation of the system, were in some early instances called upon to report the results of their experience with or observation of the working of the tax system. For some reason investigations thus conducted were not deemed productive of sufficiently encouraging results, for the next step was the creation of the special state tax commission which appeared about 1843. These commissions were endowed with more or less comprehensive powers of research and investigation into the working of the revenue system. They could subpoena and examine witnesses, in many cases, and the membership ranged from three to eleven members. The report was usually required to be made to the next succeeding legislature.

### REPORTS OF SPECIAL COMMISSIONS.

Perhaps the most conspicuous feature of the reports of the special commissions was the unanimity with which they denounced the local assessor, the general property tax and the absence of centralized control of the administration of the revenue system. They pointed out with much force that this most vital function of government, the raising of the

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<sup>1</sup>In Connecticut a state tax is levied on the basis of the number of specified polls.

revenue with which to run it, was broken up and scattered among innumerable local authorities, each of whom was a law unto himself and with no compelling sense of accountability to a definite superior to hold him to a scrupulous performance of his duties. With the hope of obtaining relief from the last named complaint as well as from other disorders complained of, many commissions recommended the creation of a permanent state tax office in charge of a commission of from three to five members or of a single commissioner.<sup>1</sup> The state office thus created was clothed with varying degrees of authority over the administration of the revenue laws of the state and of control over local administrative officers. This step was taken by Massachusetts as early as 1865, Vermont in 1892 and New Jersey in 1891.

#### PERMANENT TAX COMMISSIONS—POWERS.

While the eastern states led in providing the machinery of state supervision, the younger commonwealths of the west and middle west endowed that machinery with more vitality and power. As appears from a perusal of the following summaries, laws creating permanent tax commissions in the western states are more comprehensive and give more authority to the commission than do the laws in some of the eastern states where the minimum of restraint upon local government enjoys the sanction of firmly established political theory and time honored political traditions. The tax commission of Minnesota may commence prosecutions in the courts against the assessor or public officer who disobeys the laws of the state relating to assessment and taxation, or ignores the proper orders of the commission; but if minor local administrative officers disobey his orders relating to assessment and taxation in Massachusetts, the commissioner reports this fact to some local authority with whom must rest the final determination of what course, if any, shall be

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<sup>1</sup> See the reports of the late special tax commissions of Louisiana, 1906, Oregon, 1906; New Hampshire, 1908; and Maine, 1908, all of which more or less strongly favor the creation of a permanent state tax commission. The bill as submitted by the Oregon commission was enacted into law in 1909.



taken in each case. In the state of Washington the phrase "general supervision," uniformly used in the more recent laws, has been construed by the courts to clothe the orders and directions of the commission with mandatory force; but the laws of Massachusetts and Connecticut carefully withhold such supervisory authority from their commissioners.

#### CENTRALIZATION.

The tendency of recent legislation is apparently toward an increased concentration in the hands of the state tax commission of authority over local tax officers. The New York law confers somewhat attenuated powers, and in the latest reports the commission has appealed to the legislature to increase its authority. Almost without exception every western state has given its tax commission power to equalize, review, or order equalized or reviewed, assessments of the local authorities, and Alabama, Minnesota, Wisconsin and Wyoming have in unmistakable terms conferred upon their commissions the authority to order reassessments whenever necessary in order to comply with the law. New Jersey recently attempted to confer this power upon the state board of equalization of taxes, but judicial construction of the statute seems to have nullified the legislative intent.

#### MEMBERSHIP.

It is noticeable also that state officials have in the vast majority of cases, not been declared ex-officio members of permanent tax commissions. As is apparent from the wording of the later statutes, an attempt has usually been made to obtain members possessing some especial qualifications for the work, or who have had no political or party affiliation that might interfere with an impartial discharge of their duties. The reason for thus eschewing ex-officio membership becomes plain. The qualifications of the average state officer may or may not be such as would especially fit him for performing the duties of a tax commissioner. Further, he is usually elected because of his active devotion to the cause of some political party, which fact militates

against the desired feature of non-partisanship. The usual provision relating to the qualifications of members is that they possess knowledge of and be skilled in matters pertaining to taxation, and the governor is frequently enjoined from appointing all the members from the same political party. Members are often expressly prohibited from serving on or under any political committee, or taking any active part in politics during their terms of office.

#### IN CONCLUSION.

From the various features thus pointed out it appears that an attempt is being made in several states to place the entire tax problem upon a scientific basis, with skilled men dealing with it and who are as far as possible under our political system, free from every obnoxious pressure of party politics. These men are usually given long terms—four to eight years; they are required to possess special knowledge of the subject of taxation; and they are often, especially by the more recent laws, required to free themselves from every business or party alliance incompatible with an efficient and impartial performance of their duties. As pointed out above, the latest laws tend toward an increased concentration of authority in the hands of the state tax commissions; and they also demand higher qualifications and greater independence from members than some of the earlier ones.

#### ALABAMA.

Acts 1907, No. 337. The state tax commission is composed of three members appointed by the governor, each for a term of four years and each receiving a salary of two thousand four hundred dollars annually except the chairman whose salary is three thousand dollars per annum. Vacancies are filled by the governor for the unexpired portion of the terms in which the vacancy occurs.

Section 3. The persons appointed as members of the tax commission must, in the judgment of the governor, be of



high character and possess knowledge of the subject of taxation. No member may hold any other office under the laws of this state, of any other state or of the United States. Each commissioner devotes his entire time to the duties of his office and no member may hold any office or position of trust or profit or engage in any business inconsistent with the duties of his office, nor does he serve on or under the committee of any political party.

Section 4. Before entering upon the discharge of the duties of his office each commission subscribes to the constitutional oath of office and in addition thereto the following: "I, ....., do hereby solemnly swear that I will faithfully, impartially, rigidly and truly perform all of the duties of the office of state tax commissioner to which I have been appointed and which I now assume, without fear or favor, bias or thought of personal gain or advantage; but will always regard and enforce the duties and responsibilities of my said office to the best of my ability, capacity and power." Said oath shall be filed in the office of the secretary of state.

Section 6. The commission must organize at the capitol and a majority constitutes a quorum for the transaction of business. The commission after organization by resolution provide for regular meetings, and it must be in session for the conduct of investigations, revising, reassessing or assessing property at the county seat of each county wherein the property affected is situated, except that as to taxes levied against foreign corporations, all meetings must be held at the capitol, unless the commission upon written petition decides otherwise. The tax commission notifies the boards of revenue or county commissioners of the date when it will sit and meet in the county, and such boards of revenue or county commissioners shall and must sit with and advise the tax commissioners as to local conditions, concerning the taxable values in the county. But this does not apply to corporations which have assessable property located in more than one county in the state, and the county boards or commissioners have no vote in the determination of values.

Section 7. The commission may appoint a secretary at a salary not to exceed one thousand eight hundred dollars per annum and such other persons as experts, engineers, stenographers and assistants as may be necessary to perform the duties required of it, and the commission determines their compensation upon the approval of the governor, but the amount expended must not exceed three thousand dollars per annum. The commission may make such rules and regulations, not inconsistent with law, as may be necessary for efficient performance of its duties.

Section 8. The commission maintains its office, which is suitably furnished by the state, at the capitol and is supplied with stationery, books, periodicals and maps and all expenses thus incurred are audited and paid in the same manner as expenses of employes of the commission are paid. But the amount expended for this purpose may not exceed one thousand dollars per annum. The members of the commission, the secretary, experts and assistants are entitled to receive their actual traveling expenses while traveling on the business of the commission, but the amount so allowed must not exceed five thousand dollars in any one year. The entire appropriation for and the expenses of the commission may not exceed twenty-five thousand dollars per annum, which amount or as much thereof as may be necessary is annually appropriated.

Section 9. It shall be the duty of the commission and it shall have the power and authority:

1. To exercise general supervision over the assessment and collection of taxes and the enforcement of the tax laws, and over the several county tax assessors, tax collectors and county tax commissioner, and every state or county official charged with the duty of collecting, assessing or enforcing the payment of taxes, that all assessments of property, privileges and franchises may be made relatively just and equal at their true value.

2. To confer with, advise and direct all assessors, collectors of state and county taxes and county tax commissioners as to their duties under the laws of the state.

3. To direct actions and proceedings to be instituted to enforce the laws of the state relating to penalties, forfeitures and liabilities and the punishment of public officers and the officers of corporations, companies and associations for failure to comply with the provisions of this law relating to the return, assessment and taxation of property, privileges and franchises in the state, and to direct actions to be instituted for the removal of any tax assessor or tax collector for misconduct or neglect of official duty.

4. To call upon circuit solicitors and the attorney general to institute and prosecute actions against officials or individuals who fail to enforce or obey the laws relating to the assessment and taxation of property, privileges or franchises in the state, within their respective jurisdictions or spheres of duty.

5. To require any county officer, or public officer in the state to furnish information as to assessment of property, collection of taxes, receipts from licenses, and other sources, methods of taxation, values of franchises or intangible property subject to taxation and such other information as the commission may require, on blanks prescribed by the commission.

6. To require individuals partnerships, companies, associations and corporations, and the agents, officers or employees thereof, to furnish information concerning their capital, funded or otherwise, current assets and liabilities, values of franchises, or other property earnings, operating and other expenses, bonds, deeds, conduct of business and all other facts or information, books or records that may be needed in order to enable the commission to ascertain the relative burden to be borne by each and every kind of property in the state; provided, that where such person, partnership, association or corporation is not engaged in a business liable to a tax on gross receipts on capital employed in the state or on franchises or in intangible property, the commission shall not inquire into or require information as to his or its liabilities, earnings, profit and loss, expenses or conduct of business.

7. To summon witnesses to appear and give testimony and to produce records, books, papers or documents relating to any matter properly under consideration by the commission. Such witnesses may be summoned by subpoenas issued by any member of the commission, or its secretary in the name of and returnable to the commission. Such subpoenas may be issued out of any circuit court and sheriffs serving the same receive the same fees as for subpoenas served in civil cases. Or subpoenas may be served by registered mail addressed to such witnesses. In either case the subpoenas must be served at least five days before the time for appearance named therein. Subpoenas duces tecum may be served in the same manner.

8. To cause depositions of witnesses, residing within or without the state, to be taken upon notice to the interested party, in such manner as depositions are taken in the circuit courts of the state, in any matter the commission has authority to investigate, such depositions to be upon commissions issued by the tax commission, or its secretary and returnable to it.

9. Oaths to witnesses in any matter before the commission may be administered by any member thereof or the secretary. In case a witness refuses or neglects to appear when summoned or to testify as required or to produce books or records, it is the duty of any circuit court, or court of like jurisdiction, or any judge thereof, upon the application of any member of the commission, to compel such witness to comply with the summons or requirements of the commission in any matter over which the commission has jurisdiction, and the court or any judge thereof may punish such witness for contempt as in cases of disobedience of a like subpoena issued from such court for a refusal to testify in any cause pending therein. No witness is excused from appearing, testifying or producing books and records on the ground that so doing would tend to criminate himself or subject him to a penalty or forfeiture. But no witness is prosecuted on account of any matter concerning which he may testify or offer documentary evidence. be-



fore said commission, and no witness is exempt from prosecution for perjury for falsely testifying before it.

10. To visit the several counties to investigate the work of officers charged with the duty of assessing, collecting, determining or adjusting the taxation of real or personal property in the state or any county thereof; to investigate complaints as to evasions or violations of the laws of assessment and taxation, or cases where such evasions or violations are by it discovered, and to ascertain wherein their operation is defective and to report the facts to the governor from time to time as required by him.

11. To investigate the tax systems of other states and to recommend such changes in the laws from time to time as may be deemed expedient to prevent evasions of any laws relating to taxation or to remedy inequalities in their operation.

12. To consult and confer with the governor on the subject of taxation and the administration of the laws and to furnish the governor such information as he may desire.

13. To transmit to the governor, thirty days before the meeting of the legislature a report showing all the taxable property in the state in tabulated form with such recommendations for improvements in the system of taxation as the commission deems expedient.

14. To assess, or cause to be assessed by the proper officer, any property subject to taxation, and to set aside any assessment made by any officer or officers or boards authorized to make assessments, and to reassess or revalue such property, no matter by whom the original valuation was made, unless such valuation has been previously confirmed within the same tax year or determined by a court of record on appeal; and the commission has power to assess or reassess and value any tangible or intangible property subject to taxation in the state, without regard to previous assessments or valuations, and it has the power to cause all its assessments, valuations, reassessments or revaluations to be entered in the proper assessment books of the several county officers or of the appropriate boards or tribunals authorized to assess property or determine questions

of assessment and taxation. In every case the state tax commission revalues or reassesses any property previously valued or assessed for the same year by the county tax commissioner, or the board of revenue or the court of county commissioners of the county in which the property is situated or subject to taxation, thirty days' notice must be given to the owner, or reputed owner, of such property by personal service or by registered mail, before such assessment is entered on the rolls. From the final determination of the commission the property owner may appeal to the circuit court of the county or a court of like jurisdiction within thirty days, and when property assessed lies in more than one county the owner may appeal to the circuit court of Montgomery county. On appeal the cause is tried *de novo* and takes precedence over all other cases except criminal cases, and from the judgment of said court an appeal to the supreme court may be taken within sixty days. If the state is unsuccessful, the fees and mileage of defendant's witnesses, no more than five in number, are paid as other commission expenses are paid. When any property has been assessed and valued by the commission, or court of record, such property may not be assessed or valued at a lower figure in any following year, if the property remains in substantially the same condition, without the consent of the commission.

Section 10. The findings, judgments, assessments, valuations and orders of the commission are conclusive upon every public officer in Alabama now or hereafter charged with the duty of assessing or collecting taxes or enforcing the assessment and collection of the same, but in case of an appeal from any finding of the commission such appeal operates a supersedeas thereof.

Section 11. The findings, judgments and assessments of the commission are binding and conclusive upon any person, partnership, association, company or corporation until the same has been set aside by the judgment of a court of competent jurisdiction.

Section 12. The commission requires its secretary to keep on file a complete record of its orders and proceedings and,

upon the approval of the governor, print and cause to be circulated such information as to its proceedings and the subject of taxation as may seem useful and proper, the cost thereof to be paid as other expenses of the commission are paid.

Section 13. The commission appoints, with the approval of the governor, one county tax commissioner for each and every county in the state, and vacancies in the office of county tax commissioner are filled by appointment by the commission for the unexpired terms with the approval of the governor. Any county tax commissioner may be removed by the governor for inefficiency or malfeasance in office, or by the commission with his approval, and of the ground or cause for removal the governor is the sole judge. The county tax commissioners exercise all the duties imposed upon them by law not inconsistent with this act.

Section 14. The attorney general and the various solicitors of the state, when requested by the commission, represent the commission and the state in any or all legal proceedings instituted by or against it, and the governor may contract with special counsel to assist in or carry on such legal proceedings.

Section 17. No officer of any bank or banking institution shall be required to disclose to the tax commission or any of its agents or clerks the deposits of its customers.

### CONNECTICUT.

In Connecticut special state tax commissions have reported as follows:

1. Reported in 1844; tenure one year.
2. Reported in 1868; tenure one year.
3. Reported in 1881; tenure one year.
4. Reported in 1886; 1887; tenure thirty-four months.

General Statutes, 1902, Section 2413. The governor appoints one tax commissioner, with the advice and consent of the senate, for a term of four years, unless sooner removed by the governor for cause. He receives an annual salary of three thousand dollars. The commissioner, before entering upon the duties of his office, takes

the oath required of executive and judicial officers and in the performance of his duties he has power to administer oaths to any person. He visits the towns in the state and inquires into the manner of listing and assessing property and ascertains if the laws relating thereto are properly executed by assessors and boards of relief, and whether all persons and property taxable in such towns are in fact justly assessed and taxed and all taxes collected. For this purpose he has power to summon any persons in such towns before him and examine them under oath, and to compel the attendance of any such witnesses and the production of books and papers by suitable process. No person may be excused from testifying or producing books and records on the ground that so doing will tend to incriminate himself but such evidence may not be used in any criminal proceedings against him. Any person who disobeys such process or refuses to testify as required may be committed to jail after inquiry into the facts of the case by any judge of the superior court.

Section 2414. The tax commissioner is a member of the board of equalization and annually reports to the board the results of his official inquiries. He also issues a biennial report to the governor in which he may set forth any changes in the revenue laws deemed desirable. Fees of witnesses, or for the service of subpoena or *capias* issued by said commissioner, or by a judge of the superior court, upon the application of said commissioner, are paid and allowed by him as part of his incidental expenses.

Section 2360. Any changes made in the list of any town must be communicated by the tax commissioner to the clerk of such town who thereupon inserts the changes made by the board.

Section 2364. The treasurer of every county, city, borough and town on the second Monday of October every fourth year, returns to the tax commissioner a clear and accurate statement under oath of all items constituting the particulars of the total indebtedness of such county, city, borough or town on the first day of October next preceding such return; the purpose and object for and the year



in which such indebtedness was incurred; the form in which the same exists and when payable; the amount actually raised by such corporation during the year next preceding the said first day of October, by taxation and by loan, and the amount actually expended during the said period for interest, roads, paupers, salaries, schools, police and fire departments, and the rate per centum of taxes laid during said period, and such additional information regarding the same as the tax commissioner may require.

Section 2365. The tax commissioner must furnish the said officers the necessary blanks and forms on which to make the returns required in the preceding section and publish such returns so as to exhibit the same by counties, and show their several aggregate, and send one copy thereof to the clerk of every town, the mayor of every city, and the warden of every borough.

Public acts 1907. Chapter 204.

Section 2. The tax commissioner annually causes to be prepared by the officers of the several towns, cities and boroughs having in charge the assessment, collection or receipt of taxes, complete statements relating to matters of taxation during the preceding year, such statements to be made upon printed blanks furnished by the tax commissioner to all such officers at least thirty days before the date prescribed by the commissioner for the filing of the statements.

Section 3. The tax commissioner, in addition to other reports he is required to make, annually, collates and prepares from the reports provided for in the preceding section and such other information as he may obtain, statistics concerning the assessment and collection of taxes during the preceding year, and reports the same to the board of equalization; and he annually causes to be printed so much of the report herein provided for as will show the method and manner of the assessment and collection of taxes and the amount of such taxes levied and collected in the several towns, cities and boroughs.

Laws of 1907, Chapter 179. Section 4. (Where ancillary administration has not been taken out in the state on the estate of a non-resident decedent), no corporation or person

having possession or control over any such property may deliver or transfer the same to any foreign executor, administrator or trustee or to the legal representative of such decedent, or upon their order or request, unless notice of the time and place of such intended delivery or transfer be mailed to the tax commissioner at least ten days prior to said delivery or transfer; nor may any such corporation make any such delivery or transfer without retaining a sufficient amount of such property to pay any tax which may be due or become due under the provisions of the following section without the written consent of the commissioner.

Section 5. The commissioner, personally or by his representative, may examine such property as speedily as possible after receiving the notice aforesaid for the purpose of fixing the valuation of such property as a basis for the assessment of the tax. Whenever a tax is assessed on said property by the commissioner he lodges a statement showing the valuation with the amount of the tax with the state treasurer and gives notice thereof to the person or corporation having control of the property. Any administrator or executor aggrieved by such valuation may appeal to the probate court of the district in which the property is situated, which court has the power to order a revaluation and reassessment of the tax thereon, to be made in the manner provided by law for the appraisal and the assessment of the succession tax on estates of resident decedents and subject to the same right of appeal.

#### INDIANA REVISED STATUTES 1908.

The state board of tax commissioners consists of three members, not more than two of whom may belong to the same political party, together with the secretary and the auditor of the state, who shall be ex-officio members. The governor appoints each of the three for a term of four years and each of the three appointees receives an annual salary of three thousand dollars and his necessary traveling expenses, incurred while performing the duties of his office. Each appointee executes a bond in the penal sum of ten thousand dollars, with sureties to be approved by the gov-

ernor, for the faithful discharge of his duties, and also subscribes to an oath to be endorsed upon his official bond and both filed in the office of the secretary of state. Every member of the board before entering upon the discharge of the duties of his office must subscribe to an oath of office.

Section 10287. In case of vacancy caused by the death or resignation of a commissioner, specially chosen to act as such, the governor appoints a successor who must belong to the same political party as the member whose unexpired term he is appointed to complete.

Section 10284. The duties imposed by law upon the board, so far as the same can be consistently done, are performed by the three members specially chosen to act as such, and the auditor and the secretary of state are only required to sit with the board and take part in its proceedings when performing the duties required by law of the board as such, and at such other times and under such other circumstances as may be necessary.

Section 10285. The board is required to convene in the state house on the first Monday in April of each year for the purpose of assessing railroad property, tracks and improvements thereon, rolling stock and all property belonging to the telegraph, telephone, palace car, sleeping car, drawing room car, dining car and express and fast freight joint stock association companies, copartnerships and associations doing business in the state, and the property of all other persons, copartnerships, associations and corporations required by law to be assessed by the state board of tax commissioners, but no more than fifty days may be devoted to this work. On the first Tuesday after the first Monday of July following, the board convenes to hear complaints or applications for changes in the assessments, made by the owners of railway and all other persons, partnerships, associations or corporations whose assessments have been fixed as herein required, but such sessions may not last more than twelve days. On the next Monday following the session aforesaid, the board convenes again to hear appeals and applications for revision of the assessments and to equalize the

assessments of all property, real and personal, the assessment and equalization of which the board may or must make. Before adjourning the said first session the board determines how aggrieved parties may be heard for relief. The assessment made at the first session stands unless application for a change is made to the auditor of the state ten days before the second session of the board.<sup>1</sup> The board of tax commissioners is given the powers given to county boards of review.<sup>2</sup> The board is not bound by any appraisal or assessment previously made of any property coming before it by appeal or application for revision, but must appraise and assess all property coming before it for assessment, directly or indirectly, at its true cash value. The board may send for persons, books, papers and records, to hear and question witnesses. The board may issue subpoenas to this end and swear and summon witnesses and any member may administer oaths.<sup>3</sup>

Section 10286. Three members constitute a quorum for the transaction of business. The board may also meet in special session at any time upon the call of the chairman or secretary of the board, and any business, not by law required to be transacted at a regular meeting held at the time prescribed by law, may be transacted thereat. A record of the proceedings, open to public inspection, is kept at the capitol.<sup>4</sup>

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<sup>1</sup>Setting aside valuations. When the board has fixed the valuation of property falling within its jurisdiction, and has assessed such property, its action is final and cannot be avoided or set aside except for fraud on the part of said board. *Cleveland vs. Backus*, 133 Ind. 625, 33 N. E. 421, 188 L. R. A. 729; *Affirmed* 154 U. S. 439; *Hart v. Smith*, 159 Ind. 182, 64 N. E. 661.

<sup>2</sup>Jurisdiction. This sentence does not give the board of tax commissioners original jurisdiction over all the property, real and personal, in the state. *Jones v. Rushville Bank*, 188 Ind. 87, 35 N. E. 390.

<sup>3</sup>Contempt. The legislature cannot confer upon the board the power to punish witnesses for contempt who fail to appear or testify before it or under its direction. *Langenberg v. Decker*, 131 Ind. 471, 31 N. E. 90, 16 L. R. A. 108.

<sup>4</sup>Record. The record required to be kept by the board is conclusive and courts cannot inquire into assessments unless attacked for fraud. *Indianapolis, etc., R. R. Co. v. Backus*, 133 Ind. 609, 33 N. E. 443.

In case of omission or errors in the record of the board, it has a right and it is its duty to correct the same. *First National Bank v. Backus*, 161 Ind. 178, 68 N. E. 228.



Section 10291. It shall be the duty of the state board of tax commissioners:

1. To prescribe all forms of books and blanks used in the assessment and collection of taxes and to change such forms when required by law.

2. To construe the revenue laws and instruct revenue officers in relation to their duties when requested.

3. To see that all assessments of property are made according to law.

4. To see especially that all railroads and other corporations of the state are taxed according to law.

5. To see that all taxes due the state are collected.

6. To enforce penalties prescribed by the revenue laws of the state for violation of their provisions.

7. To determine whenever necessary the amount to be levied upon property in the different counties to make up any deficiency in the state revenues not otherwise provided for.

8. To examine all books, papers and accounts and to interrogate under oaths, or otherwise, all persons necessary to enable the board to acquire such information as will aid the board in enforcing obedience to the revenue laws of the state.

9. To make all necessary rules and regulations to carry out the purpose for which the board was created and all rules, not inconsistent with law, relating to procedure at its own meetings.

10. To report to the general assembly at each session the whole amount of revenue collected, classified as to sources, the amount lost and the cause of the loss, the proceedings of the board and other matters deemed of public interest.

11. To study the revenue system of other states and countries as well as the operation of the revenue laws of this state, and to recommend to the general assembly such changes in the tax laws of this state as will tend to remedy any inequality or injustice that may attend their actual working in Indiana.

12. To see that each county in the state be visited by at least one member of the board at least once a year to the end that the operation of the laws may be observed, that all revenue officers comply with the law and that complaints concerning it may be heard.<sup>1</sup>

Section 10294. Any person who disobeys any subpoena of the board or refuses to testify when requested by the board is deemed guilty of a misdemeanor and fined not less than one thousand dollars for each offense.<sup>2</sup>

Section 10300. Any person, partnership, company, association or corporation dissatisfied with the action of the county board of review has a right to appeal from the orders of such board relating to assessment and taxation to the state board of tax commissioners upon giving notice within five days of the adjournment of the county board of review to the auditor of the county from which the appeal is to be taken. The state board may make necessary regulations in regard to the taking of appeals not inconsistent herewith. The board then assesses the property in controversy from the first assessment of which appeal has been taken.<sup>3</sup>

Section 10301. The state board of tax commissioners must examine all the real and personal property assessed for taxation in the several counties as returned to the auditor of state, and to equalize the assessments as hereinafter provided, but it may not reduce the aggregate assessed valuation below the true cash value as defined in this act.

Section 10295. The board of tax commissioners during the first five days of the second session each year considers the

<sup>1</sup>Discretion—Errors. Courts cannot control the discretion of the state board of tax commissioners, and errors or irregularities must be corrected in the manner provided by statute. *Cleveland R. R. Co. v. Backus*, 133 Ind. 513, 33 N. E. 421, 18 L. R. A. 729; Affirmed 154 U. S. 439.

<sup>2</sup>Contempt. The board cannot be empowered to punish persons for contempt. *Langenberg v. Decker*, 131 Ind. 471, 31 N. E. 90.

<sup>3</sup>Raising Assessments. Without an appeal from the county board of review, the board of tax commissioners has no jurisdiction and cannot raise any assessment. *First National Bank v. Brodhucker*, 137 Ind. 693, 694, 374 N. E. 340; *Jones v. Rushville National Bank*, 138 Ind. 87, 91, 35 N. E. 390.

Adding omitted property. The state board of tax commissioners cannot add omitted property to a tax list except in case of an appeal from an instance where that question is involved. *Cummings v. Stark*, 139 Ind. 94, 34 N. E. 444.

assessment of the personal property of the various counties of the state, and also the assessment of real estate of such counties in the years when it is required to equalize the same. At this time the board determines what assessments are too low and fixes a day not earlier than fifteen days from the expiration of the said five days, when the matter of the increase of such assessments will be considered. A notice of the contemplated increase together with a statement as to whether real or personal property will be affected, is sent to the auditor of the county within which the property is situated. With this notice must go a copy of the order directing the manner in which such hearing may be had.

Section 10297. Any representative of the board of county commissioners and any tax payer to be affected by the contemplated increase may appear at the hearing provided for in the preceding section.

Section 10299. For the purpose of hearing and determining the matter of such proposed assessment the third or last session of the board may be extended not to exceed ten days.

Section 10305. The board of tax commissioners must also assess railroad property, tracks and rolling stock, at its true cash value and to this end may examine persons and papers.<sup>1</sup>

Section 10306. When the board has completed a separate consideration of the several classes of property the results are tabulated and perfected in such manner as seems to the board most likely to effect a just equalization of assessment throughout the state, preserving, however, the principle of separate rates for each class of property.

Section 10307. When the board has completed its assessments and its equalization of assessments, it certifies to the auditor of state the rates finally determined to be added or deducted from the valuation of each class of property in the several counties and also the amounts assessed by the

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<sup>1</sup>How Valued. When a railroad runs into or through two or more states, its value for taxation purposes, in each, is fairly estimated by taking that part of the value of the entire road which is measured by the proportion of the length of the particular road in that state to that of the whole road. *Pittsburg R. R. Co. vs. Backus*, 154, U. S. 421, affirming 133 Ind. 625, 33 N. E. 432. Rolling stock. The board has exclusive authority to assess railroad track and rolling stock. *Pfaff v. Terre Haute R. R. Co.*, 108 Ind. 144, 9 N. E. 93.

board,<sup>1</sup> and the auditor of state reports the final action of the board to the several county auditors.<sup>2</sup>

### KANSAS.

A special tax commission of eight members was created by Chapter 361, Laws of 1901, to consider the problem of revenue and taxation and to report thereon after one year.

Laws of 1907. Chapter 408. The tax commission succeeds and takes the place of the board of railroad assessors and the state board of equalization and is clothed with all the powers and duties of the two boards aforesaid, and such other powers and duties as may hereafter be provided for. The commission consists of three members appointed by the governor, by and with the advice and consent of the senate, each for a term of four years and each receiving a salary of two thousand five hundred dollars per annum. Vacancies are filled by the governor for the unexpired terms, subject to confirmation by the senate. Each commissioner qualifies by taking the constitutional oath of office and by giving bond to the state in the sum of ten thousand dollars, conditioned on the faithful performance of his duties. No person appointed as member of the commission may hold any other office under the laws of the state or of the United States, nor may he serve on or under any political committee. Each member devotes all his time to the duties of his office and must be known to possess knowledge of the subject of taxation, and no commissioner may engage in any occupation or business inconsistent with his duties. The annual appropriation for the years 1910 and 1911 is seventeen thousand dollars.

Section 5. The commission must keep a complete record of its official proceedings and a seal by which all its processes

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<sup>1</sup>Injunction. If the assessments are illegal and not authorized by law, the auditor of state may be enjoined from certifying to the county auditors the final action of the board. *Fargo v. Hart*, 193 U. S. 490.

<sup>2</sup>Evidence to set aside valuation. The judgment of a state board empowered to fix a valuation for taxation cannot be set aside by testimony tending to show that the valuation was other than that fixed by the board, where there is no evidence of fraud or gross error in the system on which the valuations were made. *Pittsburg v. Backus*, 154 U. S. 421, affirming 133 Ind. 625.



or certificates shall be attested and copies of the records of the commission, certified by the secretary and attested with its seal, are received in evidence as other public records. The secretary is custodian of the seal and records of the commission and he and any member may administer oaths.

Section 7. Two members of the commission constitute a quorum.

Section 8. The commission provides a uniform method of keeping books relating to taxation in each county and in the office of the treasurer and the auditor of state. It prepares and sends to the proper county officers all forms and blanks herein provided for relating to the assessment and collection of taxes. The commission, or a member thereof, must visit the several counties of the state as often as may be necessary to see that property is properly assessed and that the forms prescribed are used as required by law or by the orders of the commission. The commission has general supervision and direction over county assessors. The commission, at least once in two years, requires the several county assessors to meet at the capitol, on a day designated, to consider matters of taxation and assessment and to discuss and formulate desirable and needed changes in the laws relating thereto. The necessary traveling expenses of the assessors are paid by their respective counties.

Section 9. The commission has general supervision of the system of taxation in the state and must make a thorough investigation thereof. It reports to the legislature the results of its work and makes such recommendations as seem advisable. Such information may be printed and circulated.

Section 10. The commission may require local officers, whose duties pertain to the assessment and collection of taxes, or the disbursement of the public funds, to report on prescribed blanks and it may call upon individuals and corporations for information relating to taxation, examine books and papers, summon witnesses to appear and testify and bring papers and books, and in case of refusal to obey summons, it may call upon the attorney general to proceed and compel such obedience. In the discretion of the commission

fees may be allowed and paid witnesses, and any person testifying falsely is punished as for perjury.

Section 11. The commission may employ a secretary at a salary not to exceed two thousand dollars per annum and a clerk at a salary not to exceed one thousand two hundred dollars per annum, who must be a stenographer, and such other experts and assistants as may be necessary. The commission may make all needful rules and regulations, not inconsistent with law, for the effectual performance of its duties as a board of assessment or otherwise, and for conducting hearings.

Section 12. The commission shall have the power and authority and it shall be its duty:

1. To have general supervision over the assessment and tax laws of the state, over township and city assessors, boards of county commissioners, county boards of equalization and all other boards of levy and assessment and to require all such officers under penalty of forfeiture and removal from office to assess all property at its cash market value.

2. To advise, confer with and direct assessors, boards of commissioners, boards of equalization and other assessing officers as to their duties under the laws of the state.

3. To direct proceedings and prosecutions to be instituted against public officers, or officers and agents of corporations, for failure or neglect to comply with the law or the orders of the commission relating to assessment and taxation of property, and to cause complaints to be made against assessors, county commissioners, boards of equalization, or other assessing or taxing officers, in the proper court, for their removal from office for official misconduct or neglect of duty.

4. To call upon the attorney general or county attorneys to commence and assist in proceedings against persons or officers for violation of the laws of assessment and taxation, or to represent the commission in any litigation in which it may be involved in the discharge of its duties.

5. To require township, city, county, state or other public officers to report information as to the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and any other necessary information upon such blanks as the commission may prescribe. The commission shall investigate the properties of corporations, the business, income, expenditures and true values of franchises and properties of all public service corporations so as to enable it to ascertain a fair basis for assessing the same and of making recommendations to the legislature and for directing local officers in making such assessments.

6. To require individuals, partnership, companies, joint stock companies, associations and corporations to furnish information concerning their capital, funded or other debts, current assets and liabilities, earnings, operating and other expenses, taxes and other charges and all other facts which may be needful or desirable to enable the commission to ascertain the relative burdens borne by each class of property in the state.

7. To summon witnesses to appear and testify and produce books and records relating to any matter which the commission may have authority to investigate.

8. To take or cause to be taken depositions of witnesses residing within or without the state, on notice to the interested party and in the same manner as depositions are taken in the district courts of the state, in any matter properly before the commission.

9. To investigate the work and methods of local assessors, boards of county commissioners and county boards of equalization in the assessment and equalization of all property by visiting the counties of the state.

10. To investigate all cases where evasion of the laws of assessment is alleged or discovered, to ascertain wherein the existing laws are defective and to make recommendations for changes and improvements therein.

11. To investigate the tax systems of other states and countries and to recommend such legislation as will prevent evasion or violation of the laws of assessment and taxation.

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12. To devise a system of uniform accounting of disbursements and receipts for the townships, cities and counties of the state.

13. To consult and confer with the governor and attorney general of the state on the subject of taxation and the administration of the laws relating thereto, and to furnish the governor with such information as he may from time to time require.

14. To transmit to the governor and each member of the legislature, thirty days before the meeting of the legislature, the report of the commission covering the subject of assessment and taxation, the investigations of the commission, together with its recommendations.

15. To make assessment and appraisement of all railroads and all property of railroad corporations excepting such real estate as is not used in the daily operation of its railroad, of all telephone and telegraph lines and companies, the property of all express companies, sleeping car companies and private lines doing business in the state, of gas pipe and oil pipe lines and property, of all street railroad and electric lines and property, and all express company property within or without the corporate limits of cities doing business in the state.

16. To require any county board of equalization to reconvene at any time after its adjournment, and make such orders as the tax commission shall determine are just and necessary, and to require such board to raise or lower the valuation of all classes of property, real or personal, in any city or township and to raise or lower the valuation of the property of any corporations; and generally to make any orders to such board or to do such acts as may be necessary to the end that all property may be equitably valued and assessed.

Section 13. The tax commission has power and authority to prosecute any member of any board of county commissioners and any county, township or city assessor for the violation of any rule or order of the commission, or state law relating to the assessment and taxation of property.

Section 16. The tax commission prepares all necessary questions to be answered by the tax payer and persons of



each county, and the forms of the same, and the oath to be annexed thereto.

Section 17. The tax commission constitutes a state board of equalization and has power to equalize the assessments of all property in the state between persons, firms or corporations in the same assessment district, between cities and townships of the same county and between the different counties of the state, and the property assessed by the tax commission in the first instance. Appeal from the action of the county board of equalization, by any one feeling aggrieved thereby, may be taken to the state board of equalization within thirty days after the action of the former. The tax commission apportions the state taxes among the counties in proportion to the valuation of the taxable property therein for the year as equalized by the tax commission. Whenever the valuation of a taxing district is changed by the state board of equalization the officers of such district who have authority to levy taxes, are required to use the valuation so fixed as a basis for making their levies. (As amended by chapter 79, Laws of special session, 1908.)

Section 26. On or before the first day of January, 1908, the tax commission prepares and transmits to the county clerk of each county a form of schedule for the listing and assessment of real and personal property, a form of oath attached thereto and such questions as the commission may deem necessary and proper.

Section 27. Prosecutions for false and fraudulent statements or listing by any person, firm or corporation, may be commenced upon the complaint of any tax commissioner, county assessor or deputy assessor.

Section 28. The tax commissioners, county assessors and deputy assessors must notify the county attorney of the proper county of any willful violation of the provisions of this act relating to the listing and assessment of property and they must sign and verify complaints and information in respect thereto prepared by the county attorney.

Section 31. No tax commissioner, assessor or deputy assessor can compel the production of the books of any bank, nor shall any officer of a bank be compelled to testify as

to the contents of any of the records of such bank or produce the same for examination in any matter relating to taxation.

Section 34. After having valued and assessed all railroad and other property in the state, the tax commission makes returns to the county clerks of each and every county in which any portion of such railroad or other property designated in this act may be located. (As amended by section 5, chapter 243, Laws of 1909.)

Section 35. Such returns shall be as follows:

1. Number of miles of track in each city and township in the county and the total length in the county.

2. The average valuation per mile, such valuation to contain the following items: Track, right of way, franchise, road bed, rolling stock, telegraph lines and instruments connected therewith, material on hand, supplies and tools, and all other property used in the operation of the road and moneys and credits.

3. The average valuation per mile of all other personal property enumerated in this act.

4. The amount of valuation that shall be placed to the credit of each city and township in the county.

Section 36. Such return must include full list, with city and township where located, of all second or side tracks, turnouts, depots, station houses, machine shops, or other buildings, situated wholly or in part on the right of way, platforms, fuel and water stations, with the machinery and tanks connected therewith, giving the length of each sidetrack or turnout and the assessed value of each item in the list.

Section 39. Any member of the commission, county assessor, member of any county board of equalization and any person whose duty it is to list, assess or value property, real or personal, who knowingly or willfully values or equalizes the same at less than its actual value in money shall be deemed guilty of a misdemeanor and upon conviction may be fined or imprisoned and deprived of his office.

Section 40. Sections 7503, 7504, 7550, 7551, 7522, 7564, 7565, 7566, 7585, 7586, 7588, 7592, 7608 and 7609 of the general statutes of 1901 are repealed.

By chapter 255, Laws of 1909, the state tax commission is constituted a board of appraisers for the purpose of assessing the property of telegraph, telephone and pipe line companies in the state, such assessment to be made on the basis of certain statements and reports the companies are by law required to make to the commission. But every telephone line, oil pipe line and gas pipe line located entirely within the limits of a single county is assessed by the county assessing officer.

Laws of 1909, Chapter 252. Car companies, mercantile companies and any person or firm owning or operating any freight or other cars through the state and railroad properties are assessed by the tax commission. When assessing the property of railroads the commission sits as a board of railroad appraisers.

Chapter 246. Express companies must make certain returns to the commission. The commission then ascertains the gross receipts of the companies and reports the same to the auditor of state who levies a tax of four per cent upon the receipts so reported.

Chapter 248. The commission also aids in the administration of the laws relating to the assessment and taxation of legacies and successions.

### MARYLAND.

Laws of 1878, Chapter 178, section 149. The tax commissioner is a part of the machinery of the treasury department. He is appointed for a term of four years and receives an annual salary of two thousand five hundred dollars. The governor, comptroller and treasurer, or a majority of them, appoint him.

The tax commissioner assesses for state purposes the shares of capital stock of banks and banking corporations, state and national, and the shares of capital stock of other institutions or corporations whose shares are liable to taxation in the state. He reports his assessments of such shares to

the comptroller from which assessment appeals may be taken to the proper board.<sup>1</sup>

### MASSACHUSETTS.

In Massachusetts the permanent tax office was established by chapter 283, Acts of 1865. The treasurer of the commonwealth was made tax commissioner, but was given the power to appoint a deputy, who did the active work. This arrangement continued until 1890, when, by chapter 160 of the acts of that year, the office of tax commissioner was separated from that of treasurer of the commonwealth and a separate tax commissioner provided. This is the present arrangement.

The following five special tax commissions have been created in Massachusetts with dates and tenures as indicated:

1. Created 1874, tenure 6 months.
2. Created 1893, tenure 12 months.
3. Created 1896, tenure 15 months.
4. Created 1897, tenure 5 months.
5. Created 1907, tenure 5 months.

Acts of 1909, Chapter 490, part 3, section 1. The tax commissioner, appointed by the governor, with the advice and consent of the council, is also commissioner of corporations and holds office for a term of three years, receiving an annual salary of five thousand dollars for performing the duties of both offices.

Section 2. The tax commissioner may, with the advice and consent of the governor and council, appoint and, with their consent, remove a deputy tax commissioner who receives a salary of three thousand dollars per annum. In case of vacancy in the office of tax commissioner, or during the ab-

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<sup>1</sup>Your committee suggests that this grievance of under assessment of shares of capital stock of corporations, which clearly exists, may be removed by concentrating responsibility for the appointment of the tax commissioner upon the governor, instead of distributing it among a triple headed board. The city should also be given the right of appeals from the commissioner's assessments to a judicial body instead of, as at present, to a board of three members, of whom two—the comptroller and the treasurer—are probably responsible for the appointment of the commissioner, and the third is the commissioner himself.—Report of advisory committee on Taxation and Revenue to the Mayor of Baltimore, 1908, p. 48.



sence or disability of that officer, the deputy performs his duties and process served on the deputy has the same force and effect as if served on the tax commissioner. The commissioner may also, with the advice and consent of the governor and council, appoint, and, with their consent, remove three assistants at salaries to be approved by the governor and council. The commissioner may also appoint two permanent clerks, one at a salary of two thousand dollars and the other at a salary of one thousand five hundred dollars per year, and may procure such other clerical assistance as may be necessary. He may also, with the advice and consent of the governor and council, appoint, and with their consent, remove, three supervisors of assessors, who, under the direction and control of the tax commissioner, have such supervision over assessors and collectors of taxes of the several cities and towns, as is authorized by law. He may, from time to time, appoint such appraisers as may be necessary to appraise property subject to the inheritance tax, and fix their compensation.

Section 3. He must annually report to the general court the transactions of his office for the preceding year.

Section 4. On or before the first day of May, each year, the commissioner forwards to the assessors of every city and town a list of all corporations organized under the laws of the commonwealth, known to him to be liable, on the first day of May, to taxation on their corporate franchises or property, and such other information as will assist them in the assessment of taxes.

Section 5. He may visit any city or town in the state, inspect the work of assessors and give them such advice, information and direction as will lead to uniformity of valuation throughout the commonwealth. He may cause an assessor who violates any law relating to assessment and collection of taxes to be prosecuted either in the county in which said officer resides or in an adjoining county. He may appear before the superior court and any board of county commissioners sitting for the abatement of taxes. He must give his opinion to assessors and collectors upon any matter arising under a statute relating to the assessment and collection of taxes. The supervisors of assessors perform,

subject to the control, approval and direction of the tax commissioner, all the duties imposed herein upon the tax commissioner, and the duties imposed upon the latter may be performed in the absence of the commissioner by the deputy or the first assistant acting under his direction and control. The tax commissioner is allowed his reasonable traveling expenses incurred under the provision of this section.

Section 6. The supervisors of assessors, under the direction of the tax commissioner, furnish to each board of assessors of the cities and towns all information relating to assessment, valuation and ownership of property, that has come into the possession of the tax commissioner's department, especially in regard to the taxation of legacies and successions. Such other information as will lead to uniformity in assessment must be given the boards of assessors by the supervisors of assessors.

Section 7. Whenever it appears to the tax commissioner that the property in any city or town is not assessed and valued in accordance with the provisions of law, and such failure to comply with the law is the result of neglect in making use of available information or sources of information, or in keeping proper records, he forthwith notifies the assessors to adopt such methods as he may deem necessary. Upon failure on the part of any assessor to comply with the directions of the tax commissioner, the commissioner forthwith notifies the mayor of the city or selectmen of the town of such failure together with such recommendations as he may deem necessary.

Section 9. All sums of money annually appropriated by the general court for the salaries and expenses of the board of railroad commissioners and of the board of gas and electric light commissioners, their clerks and employees, are apportioned by the tax commissioner among the several railroad corporations, street railway companies and among the several gas and electric light companies respectively, and such sums are assessed by him upon railroad corporations and street railway companies in proportion to their gross earnings from transportation of persons and property and upon

gas and electric light companies in proportion to their gross earnings.

Part 1. Chapter 490, section 57. The tax commissioner provides each city and town of the commonwealth suitable books for the use of assessors in the assessment of taxes. But the assessors of any city may, with the assent of the tax commissioner, prepare a valuation list upon books furnished by the city and in such form as the tax commissioner shall approve.

Section 100. The tax commissioner reports every third year to the general court within the first week of the then next succeeding session, an equalization and apportionment upon the several cities and towns of the number of polls, the amount of property and the proportion of every one thousand dollars of state and county tax, including polls at one-tenth of a mill each, which should be assessed upon each city and town.

Section 101. In addition to certain returns to be made by the secretary of the commonwealth to the tax commissioner, the commissioner may require from town and city officers such statements, relative to the amount and value of taxable property in the cities and towns of the commonwealth, as in his judgment may be necessary. Upon the basis of the returns and statements herein provided for he prepares the equalization and apportionment.

Part 4, Section 14. The tax commissioner may require the register of probate to furnish such copies of papers in his office and such information as he may deem necessary.

Section 17. The tax commissioner must be made a party to all petitions by foreign executors, administrators or trustees and no decrees may be made upon any such petitions unless it appears that notice of such petition has been served on the tax commissioner.

Section 20. The tax commissioner determines the amount of tax due and payable upon any estate or any part thereof and certifies the amount so due to the treasurer and receiver general and to the person or persons by whom such tax is payable; but in the determination of the amount of any tax the tax commissioner is not required to consider any

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payments on account of debts or expenses of administration which have not been allowed by the probate court having jurisdiction of said estate. If any administrator, executor, trustee or grantee feels aggrieved by any determination of the tax commissioner, he may apply by a petition in equity to the probate court for the abatement of any portion of such tax.

The tax commissioner also assists in the administration of the laws relating to the assessment and taxation of bank shares, savings banks, telegraph companies, insurance companies, trust companies, domestic business corporations, foreign corporations, express companies, legacies and successions and corporate franchises generally and from such action as the tax commissioner may take in connection therewith an appeal may be prosecuted by the aggrieved party to the board of appeal within ten days after notice of his decision. (Part 3, section 68.)

#### MICHIGAN.

A permanent tax commission was created in 1899 by Act number 154.

Acts 1905, No. 281, Section 145. The governor appoints three freeholders, by and with the advice and consent of the senate, for a term of six years, to constitute the board of state tax commissioners. In case of vacancies otherwise than by the expiration of terms, the governor fills such vacancies, but the person so appointed, if appointed when the legislature is not in session, holds office only until the meeting of the legislature next after such appointment.<sup>1</sup>

Section 146. The board elects a secretary at a salary not in excess of two thousand dollars per annum, and a chief clerk at a salary not exceeding one thousand five hundred dollars annually, to hold office during the pleasure of the board. The secretary devotes all his time to the duties of his office

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<sup>1</sup>The assessment of property for taxation is not a matter of such local concern that the legislature cannot provide for a state board of tax commissioners to supervise and revise the assessments made by the local assessors. *State Tax Commission v. Assessor, City of Grand Rapids*, 124 Mich. 491.



and keeps a record of all the proceedings of the board, of which records the auditor general is lawful custodian. The chief clerk devotes all his time to the duties of his office and he and the secretary perform such duties as the board assigns them.

Section 147. The members of the board, chief secretary and chief clerk subscribe to the constitutional oath to be filed with the secretary of state, and each member of the board receives an annual salary of two thousand five hundred dollars.

Section 148. The board holds sessions at the capitol and it, or any member thereof, has access to all books, papers, documents, statements and accounts on file or of record in any of the departments of the state, subject to departmental rules relating to the care of public records. The board also has access to all books, papers, documents, statements and accounts on file or of record in counties, townships and municipalities and has power to subpoena witnesses upon a subpoena signed by the president and attested to by the secretary thereof, and this subpoena may be served by any person authorized to serve subpoenas from any court of record in the state. The attendance of witnesses may be compelled by attachment issued by any circuit court upon sufficient showing that the witness has been properly subpoenaed and has failed to appear. The board has power to examine witnesses under oath, and oaths may be administered by any member or the secretary. The board has power to examine books, papers, or account of any corporation, firm or individual liable to pay taxes in the state and any officer or stockholder of such corporation, member of any such firm or person who refuses to permit such inspection or neglects or fails to appear before the board in response to its subpoena and testify as herein provided is deemed guilty of a misdemeanor and punished by a fine not exceeding two thousand dollars or imprisonment in state prison, or both, in the discretion of the court.

Section 150. 1. It shall be the duty of the board to receive all complaints as to property liable to taxation that has not been assessed, or has been fraudulently or improperly



assessed, investigate the same and correct whatever irregularities that may be found to exist.

2. To see that each county in the state be visited by at least one member of the board at least once in each year, that all complaints concerning assessments may be heard and information concerning assessments gathered.

3. To require from any officer in the state, on blanks furnished by the board, such annual or other reports as will enable the board to ascertain the assessed and equalized values of all property listed for taxation; the amount of taxes assessed, collected and returned and such other matters as the board may require.

4. To ascertain the actual cash value of all taxable property in the state and to present at each meeting of the state board of equalization the results of such inquiry.

Section 151. The board makes an annual report to the governor setting forth its findings and recommendations relating to all matters of taxation. Five thousand copies are printed, three hundred of which are distributed by the state librarian.

Section 152. After the various assessment rolls required to be made, have been passed upon by the several boards of review, and prior to the meeting of the board of supervisors in October of each year, the state board of tax commissioners has power to inspect the same. If it appears, or is made to appear, by written complaint<sup>1</sup> of any taxpayer to said board that property subject to taxation has been omitted from the rolls, or individual assessments have not been made in compliance with law, the board may issue an order directing the assessor whose assessments are complained of to appear with his assessment roll at a time and place to be stated in the order, the time not to be less than seven days from

<sup>1</sup>Another difficulty arises from the provision of this section that the corrective power of the board shall extend only to property mentioned in any given complaint. For example, A complains of excessive valuation. The board can investigate only the property mentioned in his complaint, but must see that it is assessed at its *cash value*. The board finds that this property is assessed below cash value but higher than other property in the district. The board cannot raise the assessment of other property, but must raise that of A to the cash value thereof, which manifestly aggravates instead of relieving the injustice he complains of. Such cases have come before the board.—Report Board Tax Commissioners, 1907-8, p. 12.

the issuance thereof and the place to be at such point within the county as may be deemed most convenient by the board. A notice of the time and place at which the assessor is ordered to appear, together with statements of the persons whose assessments are to be considered, must be published in some paper within such county at least five days before the assessor is required to appear and when practicable personal notice shall be given to such persons prior to the said hearing. A copy of the said order must also be served upon the supervisor or assessing officer in whose possession said roll may be, at least three days before he is required to appear with said roll. The board, or any member thereof, then and there determines as to the proper assessment of all property and persons mentioned in said notice. All persons affected or liable to be affected by review of said assessment may appear and be heard at the hearing. Any changes in the assessments are entered into columns provided for that purpose and the true assessment is entered opposite the property affected by the review, and property not upon the rolls is put thereon by the board or member acting and assessed at its true value. In case of review under the provisions of this section the board or member acting certifies under his hand the day and date of such review and all changes made in the assessment. For appearing with the roll as herein required the supervisor or assessing officer receives the same per diem as is received by him when attending the meeting of the board of supervisors. The action of the board of tax commissioners or any member thereof taken as herein provided is final. (As amended by Act No. 8, Laws of 1909.)

Section 153. In addition to the secretary and chief clerk the board may appoint such clerical assistance as may be necessary to perform its duties, provided that no more than ten clerks may be employed and that the compensation of each person so employed shall not exceed one thousand dollars annually.

Section 154. If it appears to the tax commissioners that property has escaped assessment in any previous year, the board reports the fact to the proper assessing officer, and the same is listed for taxation upon the next tax list that shall

be made and is valued as all other property. The board further certifies to the board of supervisors of the several counties at the October session thereof, next after said property shall be then listed for taxation, the description of the property and the year the same has been liable to and escaped taxation and said board of supervisors ascertains the rate of taxation for said several years, and orders the taxes for the said several years to be entered against the said property upon the valuation for the then current year, and the same is so entered in a column provided for that purpose and constitutes a charge against the person or property and is collected as other taxes.<sup>1</sup> Provided, however, that this provision shall not be deemed to relate back prior to the going into effect of this section. Provided, further, that in case of change of ownership of the property omitted, said taxes shall not be entered against said property prior to the last change of ownership.

Act No. 49, Laws of 1909. The state board of tax commissioners is constituted a state board of assessors with power to assess the property of railroad companies, union station and depot companies, telegraph and telephone companies sleeping car and express companies, refrigerator companies and fast freight companies and all other companies, owning or operating any other cars, not exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over the line of any railroad in this state.

## MINNESOTA.

Chapter 13, Laws of 1901, provided for the appointment of a tax commission of three members to hold office for eleven months. This commission formulated a tax code and made

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<sup>1</sup>Proceedings for the assessment and collection of taxes are quasi judicial and come within the "due process" clause of the constitution. While the legislature has the power to provide for the listing and assessment of property omitted to be listed as the law requires of the owner, an opportunity must be given by notice to the taxpayer, permitting him to be heard before the board of assessors, or the tribunal having the power to list and assess such property, or before the courts of the state in some appropriate proceeding, before the assessment can be conclusive. *Caldwell Lumber Co. v. Smith*, 146 N. C. 199.

investigations and recommendations in due course. The permanent tax commission was created in 1907.

Laws 1907, Chapter 408. The commission consists of three members appointed by the governor, by and with the advice and consent of the senate, each for a term of six years and each at an annual salary of four thousand five hundred dollars. The governor may remove a commissioner for inefficiency, but before being removed he must be furnished with a copy of the charges against him and given an opportunity to be heard. Vacancies are filled by appointment by the governor for the unexpired terms, such appointments to be confirmed by the senate. If the appointment is made when the legislature is not in session, the appointee holds his office subject to confirmation at the next succeeding legislative session. The member having the shortest term of service is chairman of the commission.

Section 5. The members appointed must possess knowledge of and training in the subject of taxation, and, so far as is practical, be non-partisan, no more than two members of the commission affiliating with the same political party or organization. No member may hold any other office under the laws of this state, of the United States, or of any other state, nor may any member serve on or under any committee of any political party, or directly or indirectly take part in any political campaign.

Section 6. Each commission and employe must take the constitutional oath of office to be filed with the secretary of state.

Section 8. The commission holds its sessions at the capitol and a majority constitutes a quorum to do business. It must remain in continuous session for the transaction of business from day to day, except Sundays and legal holidays, and deemed to be adjourned from day to day without formal entry thereof on the records. The commission may hold sessions at any other place than the capitol when deemed necessary.

Section 9. The commission may appoint a secretary at a salary not to exceed two thousand four hundred dollars annually and such other experts, assistants and clerks, one of



whom shall be a stenographer, as may be necessary, but the total expense of such clerks, assistants or experts exclusive of the secretary must not exceed six thousand dollars per annum. If necessary, however, to employ more assistants or clerks than herein provided for, the commission may, with the consent of the governor, attorney general and state auditor, do so. The secretary keeps full and complete minutes of the proceedings of, hearing and testimony taken before the commission, and performs such other duties as are required of him by the commission. The commission may make all rules, consistent with law, for the orderly and successful transaction of business.

Section 10. The commission is supplied with periodicals, newspapers, maps and financial and commercial reports and the expenses thereof paid as other expenses are paid. The actual and necessary expenses of the commission, its secretary, clerk and assistants, while traveling on the business of the commissions, are paid by the state.

Section 11. The commission shall have the power and it shall be its duty:

1. To exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county and city boards of review and equalization, to see that assessments of property are relatively just and equal in compliance with law.

2. To call meetings of local assessors at the county seat, to confer with and instruct them as to the duties and the laws of the state.

3. To direct proceedings and prosecutions to be instituted to enforce the laws relating to the liability of public officers and officers of corporations for failure to comply with the laws of assessment and taxation of property within the state, and to cause complaints to be made against local assessors, members of boards of equalization or of review or any other assessing officer to the proper authority, for their removal from office for misconduct or neglect of duty. The commission may require county attorneys to assist in such proceedings of removal, punishment or forfeiture.



4. To require town, city, village, county and other public officers to report information relating to assessment and taxation of property, collection of taxes received from licenses and other sources, on such blanks as the commission may prescribe.

5. To require individuals, co-partnerships, companies, associations and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings and operating expenses, taxes as well as all other statements now required by law for taxation purposes.

6. To summon witnesses to appear and give testimony and to produce books, records, papers and documents relating to taxation matters over which the commission has authority.

7. To take and cause to be taken depositions of witnesses within or without the state, after notice to the interested party, in such manner as depositions are taken in civil actions in district court.

8. One or more members shall officially visit at least one-half of the counties of the state annually and every county once in two years to ascertain if the laws relating to the assessment of property are enforced and if assessors perform their duties.

9. To investigate tax laws in this and other countries and to recommend to the legislature such plans for improvement in the system of taxation as may seem expedient.

10. To confer with the governor on the subject of taxation and give him such assistance and information as he may require relating thereto.

11. To report biennially to the legislature and the governor showing all taxable property in the state and the value of the same in tabulated form.

12. To exercise such further powers as may be required by law.

Section 12. In addition to the above enumerated powers the commission has all the powers of the state board of equalization and others as follows:

1. To require auditors to file abstracts of all real and personal property in the county as equalized by the county

board and itemized by assessment districts together with a copy of the proceedings of the county board of equalization.

2. To appoint a special assessor and deputies under him to make reassessment, when necessary to comply with the laws, of all or any property in any district. (As amended by chapter 294, Laws of 1909.)

3. To require county auditors to place upon the assessment roll property which in previous years may have escaped assessment.

4. To receive complaints relating to failure to assess property according to law and to cause to be instituted such proceedings as will remedy improper administration of the taxing law.

5. "To raise or lower the assessed valuation of any real or personal property, including the power to raise or lower the assessed valuation of the real or personal property of any individual, co-partnership, company, association or corporation; provided, that before any such assessment against the property of any individual, co-partnership, company, association or corporation is so raised, notice of the intention of the commission to raise such assessed valuation and of the time and place at which a hearing thereon will be held shall be given to such person by mail addressed to him at his place of residence as the same appears upon the assessment book, at least five days before the day of such hearing." (As amended by chapter 294, Laws of 1909.)

6. To hear and determine all matters of grievance relating to taxation and to grant such reductions and abatements of valuation or taxes and of any costs, penalties or interests thereon as may seem equitable. The commission may order a refundment of taxes erroneously paid, but a statement of fact must be made to it and the application for refundment must be accompanied by the favorable recommendations of the auditor of the county wherein the tax was paid. (Chapter 96, Laws of 1909.)

Section 13. A record of all proceedings of the commission effecting any change in the assessed valuation of any property as revised by the state board of equalization, must be kept by the secretary of the commission and a certified copy

must be mailed to the auditor of each county wherein such property is situated. The said record must specify the changes, whether additions or deductions, made in the valuation of real property in towns, villages or cities, and in the valuation of the real property not in the several towns, villages or cities, also the per cent or amount of both added to or deducted from the several classes of personal property in each of the several towns, villages and cities, and also the amount added to or deducted from the assessments of individuals, co-partnerships, associations and corporations.

Section 14. The county auditor calculates the rate per cent necessary to raise the required amount of the various taxes on the assessed valuation of all property as returned by the tax commission.

Section 15. Oaths to witnesses in any matter under the investigation or consideration of the commission may be administered by the secretary or any member thereof. If a witness fails to appear when summoned or to testify or to produce books, records or documents as required by the commission, he may be compelled to obey the summons or orders of the commission by action brought by the attorney general and be punished for such neglect or refusal.

Section 16. "Whenever it shall be made to appear to the Minnesota tax commission by verified complaint or by the finding of a court or of the legislature or either body of the same, or any committee thereof, that any considerable amount of property has been improperly omitted from the tax list or assessment roll of any district or county for any year, or, if assessed, that the same has been undervalued or overvalued, as compared with like property in the same county or in the state, so that the assessment for such year in such district or county is grossly unfair and inequitable, whether or not the same has been equalized by the county board of equalization or the tax commission, the said commission shall examine into the facts in said matter and if satisfied therefrom that it would be for the best interests of the state that a reassessment of such property be made, they shall appoint a special assessor and such deputy assessors as may be

necessary and cause a reassessment to be made of all or any of the real and personal property or either in any such district or county as they may deem best to the end that all property in such district or county shall be assessed equitably as compared with like property in such district and county." (As amended by chapter 294, Laws of 1909.)

Section 17. For the purpose of this act the sum of thirty five thousand dollars is annually appropriated. (As amended by chapter 375, section 11, Laws of 1909.)

### NEW JERSEY.

Four special tax commissions have been created in New Jersey with dates and tenures as follows:

1. Created in 1868 tenure ten months.
2. Created in 1879, tenure one year.
3. Created in 1890, tenure one year.
4. Created in 1896, tenure one year.

Act of 1884, page 84: In case the local authorities neglect or refuse to assess property at the time and in the manner required by law, the governor must appoint three commissioners who assess such property according to law.

A state board of taxation was created by act 189 of 1891. This board was superseded by the state board of equalization of taxes created in 1905.

Laws of 1905, chapter 67, section 1. A board of five members is established, each of whom must file an oath of office with the secretary of state, to be known as the Board of Equalization of Taxes of New Jersey. The president must be counsellor at law and all the members are appointed by the governor, by and with the advice and consent of the senate, for a term of five years. The president receives an annual salary of five thousand dollars and the four associate members three thousand five hundred dollars each per annum, such compensation being in lieu of any allowance for expenses. The board appoints a clerk at an annual salary of two thousand five hundred dollars and expenses actually incurred in the prosecution of the duties of his office. The board may also appoint such other clerical assistants as may be necessary, whose compensation shall be fixed by the board and approved by the governor.



Section 2. The board must keep a full record of its proceedings and make necessary regulations to effectuate the objects of this act.

The board may compel the attendance of witnesses and the production of books and papers before it, and may examine witnesses or cause them to be examined under oath, which any member may administer. In case of the failure of any person or corporation to obey any order of said board, he or it shall be liable to punishment for contempt by the board.<sup>1</sup> The board may by order refer to any member the duty of taking testimony in any matter pending before the board, but no determination shall be made except as herein provided.

Section 3. If it appears by written complaint of any county or taxing district in the state that any other taxing district or county that is by taxes contributing to a common cause with the complainant, is, by inequality of valuation or otherwise, escaping its fair share of the common burden, the board causes an investigation to be made and renders such assistance as is within its power for the purpose of arriving at a fair and equitable adjustment of values of both real and personal property of any and every kind, and belonging to any person or corporation whatsoever including such property of railroad and canal companies, as contributes to the common cause; to this end the board may examine witnesses, assessors under oath and assessments as a whole and as to any part thereof or as to any property omitted from assessment.<sup>2</sup>

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<sup>1</sup>The power to fine and imprison is essentially a judicial one and an attempt to confer it upon a state board of tax commissioners, a part of the administrative branch of the executive department, is in violation of the constitutional provision relating to the separation of the functions of government into three departments. *Langenberg v. Decker*, 131 Ind. 471, 31 N. E. 90, 16 L. R. A. 108.

<sup>2</sup>Another difficulty arises from the provision of this section that the corrective power of the board shall extend only to property mentioned in any given complaint. For example, A complains of excessive valuation. The board may investigate only the property mentioned in his complaint, but must see that it is assessed at its *true value* in money. The board finds that his property is assessed below its cash value but higher than other property in the district. The board cannot raise the assessment of other property, but must raise that of A to its actual cash value which manifestly aggravates instead of relieving the evil he complains of. Such cases have come before the board.—Michigan Board of Tax Commissioners, Report of 1907-8, p. 12.



If it appears that the value of any property in any taxing district or county including canal or railroad property is relatively lower than that of any other property contributing to a common burden, the board may after giving due notice, as hereinafter provided, add thereto such sums or amounts as shall seem equitable and warranted after comparison and examination. Similarly if it appears to the board that any property as aforesaid has been valued too high, the board may reduce the valuation to the amount of the true value of the property therein. If such reduction is made in any year after the tax rate has been fixed the board may equitably equalize any piece or pieces of property.

Before any change is made in value the assessors of the taxing district in which the change is proposed and the owner of such property is notified in writing of the intention of the board to make such change and directed to show cause at such time and place as may be designated in the notice, why such change should not be made; such notice is sufficient if published in one of the newspapers circulated in the county, at least five days before such hearing, and mailed to the postoffice address of such assessor owner or served personally on them at least five days before such hearing. The taxes for the district are levied and based on the corrected valuation whenever the taxes have been amended in any particular as aforesaid.

Section 4. The board investigates the methods adopted by local assessors in the assessment of real and personal property in the state, furnishes the local assessors information to aid in making assessments, examines all cases where evasion of proper taxation is alleged and ascertains wherein existing tax laws are defective and negligently or improperly administered; it annually reports to the legislature, particularly specifying any means used for the evasion of assessment and taxation and it annually submits to the legislature such recommendations as are deemed necessary to prevent the evasion of just and equal taxation, and from time to time also reports to the legislature what changes, if any, should be made in the laws governing the method of taxation, or any change of the rate of tax upon the prop-

erty of any person or corporation, including railroad and canal companies, in order to produce equality of taxation.

Section 5. Where verified complaint is made in writing on or before the first day of April following the assessment of property of any kind, whether belonging to individuals, corporations, railroads or canal companies, the board has power to review and correct the action of the local assessors, or other taxing officers, and of all boards of tax review, by reducing or increasing such assessment, and the corrected tax bears interest from the time fixed by the law under which it was originally levied until paid; provided, however, that the board may at any time, on application of the property owner or owners, with the consent of the mayor or assessor of the municipality affected, correct errors, mistakes or omissions in the assessments of any persons or corporations.<sup>1</sup>

Section 6. When the board has reason to believe from information or otherwise, that any property, including the property of railroad and canal companies, has been assessed at a rate lower than is consistent with a uniform and true valuation of property for the purpose of taxation, the board has power, after due investigation, to increase the assessment made upon such property; and for this purpose, if necessary, may direct an assessor, or other taxing officer, to make a reassessment of such property, according to the rules which said board may establish, and if the assessor or other taxing officer, fail or refuse to comply with the order so given, the board may appoint some other person to make the new assessment under the direction of the board; and the assessment so made and affirmed by the board is deemed to be the assessment of such property for the year. The board may also assess and add to the tax list and duplicate any property omitted, and may correct misnomers or other errors in assessments on notice to parties concerned.<sup>2</sup>

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<sup>1</sup>This section does not give the state board of equalization power to review the action of the state board of assessors respecting the taxation of franchises and property used for railroad and canal purposes. *Tuckerton v. State Board of Assessors*, 75 N. J. L. 157, 67 Atl. 69.

<sup>2</sup>The intent of this section is that the new assessment whether made by the board, or by a taxing officer, or some other person, merely carry into effect a determination previously reached by the board,

Section 7. Any taxpayer aggrieved by the apportionment of taxes against the taxing district wherein he resides, or any taxing district aggrieved by the action of the county board of assessors or of equalization, may within such time as the state board by rule prescribes, file a petition of appeal to the board, setting forth therein the cause of complaint and asking relief, and the board makes such order respecting the procedure in such case as is deemed just; and hear summarily, and determine such complaints and revise and correct the apportionment of taxes and the determination of such county boards of assessors or of equalization by fixing the amount each taxing district shall raise, in just proportion according to the true value of the taxable property therein, and the assessment so corrected and determined by the board is final and conclusive; such corrected rate of assessment is certified by the board to the collector of the taxing district where such property is taxable, and collected in the same manner as other taxes in the district are collected.

Section 8. When complaint is made in writing to the board by the board of chosen freeholders of any county in this state, or by the governing body of any taxing district, that the taxable property of any county has been undervalued or omitted by the assessors therein, the board investigates the assessment of property subject to taxation in such county complained of and certifies and files the result of every such investigation in the office of the superintendent of public instruction and in the office of the comptroller of the state. In such certificates the board specifies whether substantially all the real and personal property in each county so investigated

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after due investigation, that the property in question has been assessed at too low a valuation, and that the owner of the property is entitled to notice of the investigation. Although this section authorizes the board to establish rules in accordance with which reassessment shall be made, yet a rule prescribing notice to the property owner after the making of the reassessment and giving him an opportunity to be heard in objection thereto, does not take the place of the notice to which the property owner is entitled before the board determines the question whether his property has been assessed at too low a valuation. *Jersey City v. Board of Equalization of Taxes*, 74 N. J. L. 753, 67 Atl. 38. It seems clear that this decision practically defeats the possibility of reassessment under this act.

has been listed, assessed and valued, and if not all, what percentage; whether such property subject to taxation has been assessed and valued by the respective assessors and taxing officer in such county at substantially its true value, and if not at such value at what percentage of such value; and what should be the valuation of the property, both real and personal, in each county so investigated. Such determination of the proper valuation on the part of the board is, for all purposes of the state comptroller, the superintendent of public instruction and the state board of education, deemed to be the true valuation of each county or counties investigated, until otherwise determined by the board under the provision of this act. For such investigation the board may expend for each county not more than one hundred dollars, to be paid by the state treasurer from any fund available for the purpose, upon their filing in his office a certificate specifying in detail the items of such disbursement.

Section 9. The determination of any matter brought before said board is evidenced by a judgment duly signed by at least three members, and filed with the clerk; copies thereof duly certified by the clerk, are competent evidence in any cause or proceeding.

Laws of 1906, Chapter 9, Section 1. Whenever an appeal under the provisions of chapter 67, Laws of 1905, is taken to the board of equalization of taxes of New Jersey, from an assessment fixed by any assessor or commissioners or board of assessors, the land owner and the taxing district, through its tax collector or other equivalent officer, may, pending such appeal, agree upon an amount of taxes to be paid upon the assessment appealed from. Such amount may not be less than the amount last paid by the owner of said land previous to the filing of such appeal, together with interest and penalties thereon up to the date of payment, and shall not be in final settlement of the taxes levied, but shall be credited on account of such taxes as upon said appeal shall be finally ascertained and determined.

Section 2. In case the land owner and the tax collector cannot agree upon the amount of taxes to be paid as aforesaid, the board, upon the application of either party to the



appeal and upon two days' written notice to the other, may fix by order the amount of taxes the said land owner may pay the collecting officer pending the settlement of said appeal.

Section 3. Any payment as aforesaid saves the interest penalty upon the amount of the payment and does not prejudice the claims of either party upon said appeal.

Laws of 1907, Chapter 127, Section 22. The several county boards of taxation are required to compile tables of aggregates, copied from the duplicates of the assessors, enumerating certain items, and the blanks for filling out these tables are provided by the state board and transmitted to the county boards of taxation at their annual meetings. Copies of the aforesaid tables, when completed, are transmitted to the state board of equalization of taxes.

### NEW YORK.

The permanent tax commission was created by article eight, chapter 908, laws of 1896. The dates of the special commissions are as follows:

1. Created 1862, tenure 10 months.
2. Created 1870, tenure 22 months.
3. Created 1880, tenure 11 months.
4. Created 1892, tenure 12 months.
5. Created, 1892, tenure 12 months.
6. Created 1906, tenure 8 months.

A special commission was also appointed in 1898 (Chapter 614), to inquire into facts concerning revenue and taxation, with a tenure of office of one year.

Consolidated Laws 1909, Chapter 60, Wadhams. The board of tax commissioners consists of three members, each holding office for a term of three years and each receiving a salary of five thousand dollars per annum and expenses actually incurred while discharging the duties of his office. The board has a seal and its papers and documents may be authenticated in the usual form under such seal and may then be received in evidence as deeds regularly acknowledged or proved.

Section 171. The board shall have power and it shall be its duty:



1. To investigate methods of assessment within the state.
2. To furnish assessors with such information as will aid them in performing their duties.
3. To make such rules and regulations as may be necessary to enforce the provisions of this article and prepare forms for reports and assessment rolls to be furnished to assessors at the expense of the state.
4. To take testimony and hear proofs under oath with reference to any matters within the line of its official duty. Any member of the board may do this work and state and municipal officers may be required to furnish information necessary to the proper discharge of its duties.
5. To hold meetings at the capitol or at such places as it may designate, said meetings to be called by the chairman thereof.
6. To employ a secretary at a salary not in excess of three thousand five hundred dollars per annum and prescribe his duties, and not to exceed six special agents—confidential agents of the board—and experts and other needed assistants, prescribe their duties and fix the compensation of such employes.
7. To prepare an annual report to the legislature and recommend such amendments to the tax laws as it may deem advisable.

Section 173. Two or more members of the board visit every county in the state at least once in two years to inquire into the methods of assessment and to ascertain particularly if assessors comply with the law and assess all property, not exempt from taxation, at its full value.<sup>1</sup>

Section 174. The commissioners of the land office and the three commissioners of taxes constitute the state board of equalization.

Section 175. Any supervisor may appeal in behalf of the town, city or ward which he wholly or in part represents.

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<sup>1</sup>It is urged that the powers of the board be broadened with respect to supervisory control over local assessments, and that it be given power to order reassessments in cases where there has been a clear evasion of the statutes in the undervaluation of property by assessors. Report, Board of Tax Commissioners, 1907, p. 11.

to the state board of tax commissioners from any act or decision of the board of supervisors, in the equalization of assessments and the correction of assessment rolls. If such appeal is brought in behalf of a town, a majority of the town board of such town, if in behalf of a city, a majority of the supervisors representing such city, or if the assessments in wards in any city are equalized separately and such wards have separate assessment rolls, the alderman or aldermen representing such ward in the common council of the city shall first consent to and approve the bringing of such appeal. Such appeal must be brought within ten days after the delivery of the assessment roll to the collector by filing in the office of the county clerk a notice thereof, with such consent indorsed thereon or annexed thereto, together with the affidavit of the supervisor so appealing, that in his opinion injustice has been done to such town, city or ward by the act or decision from which the appeal is taken; and also within such time by serving personally or by mail a duplicate or copy of such notice, consent and affidavit on the chairman or clerk of the board of supervisors, and by mailing such copy or duplicate to the state board of tax commissioners.

Section 176. The board of tax commissioners may prepare a form of petition and notice of appeal from decisions of the board of supervisors in the equalization of assessments and rules and regulations in relation to bringing such appeals to a hearing or trial thereof. Hearing must be had in the county in which the appeal originated and a notice of at least twenty days must be given by mail to the appellant and the clerk of the board of supervisors of the county from which the appeal is taken. If the appellant fails to appear on the day set for hearing, the appeal is dismissed.

Section 177. The determination of the board of tax commissioners on any such hearing whether to reduce or lower the assessment is certified to the board of supervisors and forwarded by mail within ten days thereafter to the clerk of the board, directed to him at his post office address, and copy thereof is also forwarded to the supervisor appealing.

Such determination is carried into effect by such board at the next annual session.

Section 178. The board of tax commissioners certifies the reasonable expense on every such appeal, not exceeding two thousand dollars for the services of counsel and one thousand dollars for all other expenses, including the compensation and expense of a stenographer. If the appeal is not sustained the expense thereof is a charge upon the tax district or districts making the appeal and is levied thereon by the board of supervisors. If the appeal is sustained the expense thereof is levied by the board of supervisors upon and collected from the county, except the tax district or districts whose appeal is sustained. If appeals are taken by more than one tax district in the county, some of which are sustained and some dismissed, the state board decides what portion of the expenses shall be borne by any tax district whose appeal is dismissed.

Section 43. The board must annually fix and determine the valuation of every special franchise subject to taxation in each city, town or tax district. It must fix a time for hearing and then file the valuation of the special franchise with the clerk of the city or town wherein said franchise or franchises are assessed.

Section 44. Every person, co-partnership, association or corporation subject to taxation on a special franchise is required to make a full and complete report to the board of tax commissions, giving complete descriptions of all franchises held and such information as the board may call for germane to matters it has authority to investigate.

The board also has sundry duties to perform in connection with the administration of the law taxing mortgages. It has general supervision over the recording officers of the state and when the real property covered by the mortgage to be taxed lies in two or more counties the board ascertains the assessed value of the property and apportions the amounts upon which the tax is to be paid to the several recording officers.

## NORTH CAROLINA.

Machinery Act, 1909, Article 1, Section 1. In North Carolina the three members of the corporation commission elected by popular vote for a term of six years were in 1901 also declared members of a board of state tax commissioners. (The corporation commission has general supervision of all railroad, street railway, steamboat, canal, express and sleeping car companies and all other companies or corporations engaged in the carrying of freight or passengers, of all telephone and telegraph companies, of all public and private banks and all loan and trust companies and all building and loan associations or corporations.)

Section 2. The board may appoint such additional clerks as it needs to properly perform its duties and the sum of fifteen hundred dollars annually is allowed to pay the salaries of the office force.

Section 3. The members subscribe to the constitutional oath and receive a salary of five hundred dollars each in addition to their salaries as corporation commissioners and necessary expenses incurred in the performance of their duties.

Section 4. Regular sessions of the board are held at Raleigh and it has power to subpoena and examine witnesses. It has access to all books, papers, documents and statements on file in any department of state and it also has power to examine books, papers or accounts of any person, corporation, firm or individual owning property liable to assessment for taxes. Any officer or stockholder of any such corporation, or member of any firm or any person who refuses to permit such inspection, or who fails to appear before said board in response to its subpoena or testify as provided in this section, is punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding two years, or by both, in the discretion of the court.

Section 5. Regular sessions of the board are held on the first Tuesday of March, June, July, August, September and October of each year, unless said dates are changed by the order of the board in which event due notice must be given,



and it may hold adjourned sessions when deemed necessary. The chairman may call special sessions whenever and wherever in the state he deems proper and shall call such special sessions upon the written request of two members.

Section 6. It shall be the duty of the board:

1. To have general supervision of the assessing officers of the state and to take such measures as will bring all property subject to taxation in this state on the assessment rolls to be assessed at its true value in money.

2. To confer with and advise assessing officers and to institute proper proceedings against public officers, persons or corporations who fail to comply with the taxing laws of the state; to prefer charges to the governor against assessing and taxing officers who fail in the performance of their duties in reference to assessment and taxation; and in the execution of these powers the board may call upon the attorney general or any prosecuting attorney to assist said board.

3. To receive complaints as to property that has not been assessed or has been fraudulently assessed and to correct the errors when found to exist.

4. To see that every county in the state is visited by at least one member as often as may be necessary to the end that all complaints concerning the laws of assessment and taxation may be heard, that information concerning their working may be collected and that all revenue officers comply with the law and all violations thereof may be punished.

5. To require from any officer in the state, on forms prescribed by the tax commissioners, such annual or other reports as will enable the board to ascertain the assessed valuations of all property listed for taxation in the state; the amount of taxes assessed, collected or returned delinquent and such other matters as the board may require. Any officer who wilfully refuses or neglects to furnish any such report or who willfully obstructs the commission in the performance of its duties shall forfeit one hundred dollars for each offense. A delay of ten days in furnishing the report raises a presumption of willfulness.



6. To make diligent inquiries and investigations concerning the revenue laws and systems of other states and countries and with the aid of information thus received together with their experience and their observation of our own laws, to recommend to the legislature such changes and amendments as will remedy any injustice or irregularity in the laws of assessment and taxation of the state and facilitate the assessment and collection of public revenue.

7. Report further to the assembly at each regular session or at such other times as the assembly may direct, the amount of taxes collected for all purposes classified as to state, county, township and municipal purposes, with the sources thereof, the amount lost, the cause of the loss, the proceedings of the board and such other matters as the commission may deem of public interest.

8. To discharge such other duties as may be prescribed by law.

Section 7. The board must annually prepare a report to the governor setting forth its work during the preceding year together with recommendations relating to matters of taxation.

Section 8. After the various tax lists have been passed upon by the county boards of equalization, the said lists are subject to inspection by the board of tax commissioners, or any member thereof, and if it appears or is made to appear to the tax commissioners that property subject to taxation has been omitted from the assessment lists, the said commissioners may issue an order directing the assessor, whose failure to assess is complained of, to appear with his list at the county seat or other point within the county and at such time as the tax commissioners deem most convenient. A notice of the time and place of hearing must be published in a newspaper at least five days prior to the time set, and personal notice must be mailed to each person whose assessments are to be considered at least five days prior to said hearing. A copy of the order must be served upon the tax officer, in whose possession the tax list may happen to be, at least three days prior to the day on which

he must appear. The board after hearing, determines the true and lawful assessment and enters and assesses on the lists such property as has been omitted by proper description. In case of review under this section, the board or the member thereof acting in said review, certifies under his hand the day and date of such review and the changes made by him in the tax lists. For appearing with the tax list as required herein the tax officer receives the same pay per diem as received by him in the preparation of the list.

Section 9. If it appears, or is made to appear, to the board that any tax list in the state is grossly irregular and unfairly assessed, that a compliance with the law cannot be secured except by general review, the tax commissioners may issue an order that the said tax list will be generally reviewed and direct the assessor, whose failure to properly assess is complained of, to appear at such time and place as provided for in the preceding section, said time not to be less than fourteen days after the issuing of such order. Notice of the time and place of hearing and that the tax list will be generally reviewed and that all persons interested may be heard, must be published in one county paper at least seven days before the time at which the assessor is required to appear and a copy of the order must be served upon the officer, who has the said list in his possession, at least three days before he is required to appear with the list. The board or any member thereof together with the chairman of the board of county commissioners, review the tax list and fix the assessment in compliance with law and put upon the lists omitted property as provided in the preceding section, and the board, or any member thereof, proceed in all respects in the manner prescribed in the preceding section.

Section 10. "If it appears to the tax commissioners that property has escaped assessment in any previous year, the board shall report the fact to the proper assessing officer, and the same shall be listed for taxation upon the next tax list that shall be made and shall be valued as all other property. The said board shall further certify to the board of

county commissioners of the several counties at the October session thereof next after the said property shall be then listed for taxation and said board of county commissioners shall ascertain the rate of taxation for said several years, and shall order the taxes for the said several years to be entered against the said property upon the valuation for the then current year, and the same shall be so entered in "a column provided for the purpose and it shall constitute a charge against the person or property and be collected as other taxes."<sup>1</sup> Provided, however, that this provision shall not be deemed to relate back prior to the going into effect of this act. Provided, further, that in case of change of ownership of the property omitted, said taxes shall not be entered against said property prior to the last change of ownership."

#### OREGON.

Chapter 90, Laws of 1905, creates a special commission to investigate the method of assessment and the collection of taxes. This commission reported to the legislature of 1907.

Laws of 1909, Chapter 218. The board of tax commissioners is composed of five members, two to be appointed, to be known as tax commissioners, and three ex-officio members, the governor, secretary of state and state treasurer. The two appointees must be skilled and expert in matters of taxation and must not be members of the same political party. They devote their entire time to the duties of their office. The governor is chairman of the board and it has a seal to be provided by the secretary of state.

The tax commissioners are appointed by the governor, secretary of state and state treasurer for a term of four years. Each commissioner must execute a bond in the sum of ten

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<sup>1</sup>Proceedings for the assessment and collection of taxes are quasi judicial and come within the "due process" clause of the constitution. While the legislature has the power to provide for the listing and assessment of property omitted to be listed as the law requires of the owner, an opportunity must be given by notice to the taxpayer, permitting him to be heard before the board of assessors or the tribunal having the power to list and assess property, or before the courts of the state in some appropriate proceeding, before the assessment can be conclusive. *Caldwell Lumber Co. v. Smith*, 146 N. C. 199.

thousand dollars, to be approved by the governor, and must subscribe to an oath for the faithful performance of his duties. Each appointee receives an annual salary of two thousand five hundred dollars and his necessary expenses while traveling away from the capitol on the business of the commission.

Section 4. It shall be the duty of the board of state tax commissioners:

1. To have general supervision of the system of assessing and collecting public revenues throughout the state.

2. To require all assessments to be made according to law.

3. To see that all taxes due the state, counties and municipalities are collected.

4. To prescribe all the forms of books and blanks used in the assessment and collection of taxes, not otherwise prescribed by law, and to change these when required by law.

5. To construe the tax and revenue laws of the state when requested by any officer working under the same, or by any interested person, and to instruct such officers in relation to their duties with reference to assessment, taxation and the collection of revenues.

6. To issue instructions to county assessors, county boards of equalization, county clerks and tax collectors with reference to the means best calculated to bring about a fair and uniform assessment of all property, tangible and intangible, at its actual value.

7. To examine all books and papers of account and to require any person to appear before said board, or any member thereof, and to interrogate such persons under oath, or otherwise, for the purpose of enabling the board, any county assessor, county board of equalization, county clerk or tax collector to obtain information needful in arriving at the value of any franchise.

8. To see that penalties imposed for violation of the tax law or disobedience of its provisions are enforced, and to cause complaints to be made against persons or corporations violating any tax or revenue law of the state. In the



execution of these powers the board or any member thereof may call upon the prosecuting attorney or the attorney general, who shall institute proceedings against and conduct prosecutions of violators of the laws of the state relating to the assessment and taxation of property and the collection of taxes.

9. To see that all inheritance taxes are collected as required by law.

10. To make rules and regulations necessary to carry out the purposes for which the board was created and to regulate its own procedure.

11. To report to the legislature at each regular session the total amount of taxes collected in the state, for state, county and municipal purposes, with the sources thereof, the proceedings of the board and such other information as may be deemed of general interest.

12. To investigate the tax systems of other states and countries, so far as the same can be done through printed reports and correspondence, and with the aid of information so received, together with experience with and observation of the working of our own laws, to recommend to the legislature such changes in the tax laws and constitution of the state as may seem proper and necessary.

13. To see that every county in the state is visited by at least one of the commissioners as often as once in each year, that advice may be given to officers engaged in the assessment and collection of taxes and that complaints may be heard, information collected, that all revenue officers comply with the law and all violations thereof be punished and proper suggestions for amendments may be made.

14. To require from any state, county or municipal officer whose duties pertain to the assessment, levy, apportionment or collection of taxes and public dues or revenues, or the disbursement of public revenues, reports and statements in any matter deemed relevant in such forms as may be prescribed.

15. To make an annual assessment upon an assessment roll to be prepared by such board, of all property, having a situs in this state, of railroad companies, sleeping car com-



panies, union station and depot companies, electric and street railway companies, express companies, telegraph and telephone companies, refrigerator car companies, oil and tank line companies and of such heat, light, power, water, gas and electric companies as may be doing business as one system partly within the state and partly without or so doing business in more than one county of the state.

Section 7. A complete and comprehensive report must be filed annually with the board of tax commissioners by every corporation enumerated in this act, on blanks to be furnished and prescribed by the commission. The facts to be contained in these reports are enumerated in fourteen subsections.

Section 9. Subsequent to the filing of the statements provided for and prior to the first Monday in October of each year, the board must prepare the assessment roll provided for in section 4 of this act, upon which it assesses the true cash value as of the first day of March at the hour of one o'clock a. m., of the year in which the assessment is made, of all the property of the companies herein enumerated, subject to taxation under this act, which assessments may be reviewed as herein provided. For the purpose of ascertaining the cash value of the property of said companies the board may personally inspect the same and take into account any evidence obtainable bearing thereon. But no report or valuation of any county assessor of such property is conclusive upon the board in arriving at the amount, character or cash value of property belonging to such companies. When said companies own, operate, lease or use rail, pipe or wire lines or property within and without this state, and when the board values the property of such companies within or without the state, as a unit, as provided in the next section, the board is controlled in ascertaining the property subject to taxation in Oregon by the proportion which the number of miles of main track (meaning thereby main, stem and branch lines), miles of wire, or of main pipe lines controlled or used by said company, as owner, lessee or otherwise, within the state of Oregon bears to the entire mileage of main track as aforesaid, miles of wire or main pipe line controlled or used by the said company, as owner, lessee or otherwise.

Section 10. The board, for the purpose of arriving at the actual cash value of the property assessable by it as herein provided, may value the entire property, both within and without the state, as a unit. If the property within the state is assessed as a unit, the board makes deductions of the property of such company situated in Oregon, and assessed by the county assessors, to an amount that shall be just; and to this end the county assessors are required to certify to the board the assessable value of the property of said companies assessable by them, said certification, however, to be only advisory upon the board. In case the board values the entire property as a unit, within or without the state, or both, it makes such deductions of the property situated outside the state and not directly connected with the business of the company, as may be just, in order that a fair proportion of the property of said company situated in Oregon may be ascertained.

Sections 11, 12 and 13 define the methods to be followed by the board in taxing the companies herein named, what mistakes in the assessment rolls shall not be sufficient to invalidate the assessment, and the manner in which assessments made hereunder shall be apportioned among the counties in the state.

Section 14. The board must give three weeks' notice in some newspaper printed at the state capital, setting forth that on the first Monday in December it will, at the capitol, publicly examine the assessment by it made, and correct any errors in valuation, description, quantities or qualities of property by it assessable and in apportionments of assessments made by it, and it shall be the duty of the persons or corporations interested, to appear.

Section 16. The board examines and reviews the assessment roll by it made and increases or decreases the valuation of property therein assessed until the assessment conforms as nearly as possible to the cash value thereof.

It also assesses omitted taxable property at its full cash value, and corrects all errors in the assessments by it made, relating to over, under or double assessment and other er-

rors. If it appears that the property in any county has been assessed and the assessment equalized by the county board at other than its full cash value, the state board of tax commissioners must change the apportionment of property within that county assessable by said board in a like proportion.

Section 17. The board may not change the apportionment of any assessment or increase the valuation of any property on such assessment roll as provided in the preceding section, without first giving the person or company in whose name it is assessed a written notice at least six days before he is required to appear and show cause why such changes should not be made, which changes must be specified in the notice. But this notice is not necessary if the person or company voluntarily appear before the board and are there notified by it, or any member thereof, that a specified portion of the assessment of the property of the person or company needs correction, or that the apportionment of such assessment is incorrect. Petitions or applications for the reduction or change of an apportionment of a particular assessment shall be made in writing verified by the oath of the applicant, its president, secretary, managing agent or attorney in fact, and be filed with the board during the first week it is by law required to be in session, and no application or petition not so made or verified may be acted upon by the board. If a change is made in the apportionment on account of the assessment having been made at other than its full cash value, like notice shall be given the county clerk or county judge of said county.

Section 18. The board, sitting for the purpose of reviewing and apportioning the roll as above provided, continues in session until the work of review and equalization is completed, such session not to last longer than a month from the day it was by law required to meet, after the expiration of which time the review, apportionment and equalization is deemed completed.

Section 21. Appeal from the action of the board, sitting in the capacity defined above, may be taken by the aggrieved

party to the circuit court of the county wherein he resides, or if a nonresident, to the circuit court of the county where the capital of the state is situated.

Section 22. After the roll has been reviewed by the state board of tax commissioners the assessments therein are deemed completed. The board then certifies to the county clerks of the several counties, in or over which the lines of said companies run, the number of miles of main and branch lines and the respective values thereof, apportioned to each of such counties.

Section 24. A record of the proceedings of the board is kept at the capitol, open to the inspection of the public. A majority of the board constitutes a quorum to do business, but a lesser number may meet and adjourn from time to time.

Section 25. The board of tax commissioners is authorized and required to equalize the assessed valuations of the several counties in the state, as equalized by the several county boards of equalization and certified by the county clerks thereof to the secretary of the board of tax commissioners, including that assessed and apportioned by the state board of tax commissioners as required by law.

Section 28. The board of tax commissioners equalizes the values of the taxable property in the several counties and ascertains the percentage that the equalized value of all taxable property in each county of the state is of the whole value of the taxable property in the state so equalized. These tables when signed and approved by the board are printed by the secretary of state and two copies thereof forwarded to every county clerk and county assessor in the state.

Section 29. The review and correction as provided in sections 16, 17 and 18, and the equalization between the several counties, proceed concurrently.

The board of tax commissioners must, in January of each year, compute the total amount of revenue necessary for state purposes and apportion the aforesaid total revenue among the several counties in a detailed manner, showing every item of expenditure and necessary income. The procedure is defined in section 31.



Section 34. The board of tax commissioners, by a majority vote of all the members, elects a secretary at a salary of one thousand eight hundred dollars per annum. The board may appoint and remove at pleasure such other experts and clerks as may be necessary, and fix their compensation.

Section 36. The board holds its regular sessions at the capitol, but it may hold sessions in any part of the state when necessary to facilitate the discharge of its business.

Section 37. The board, or any member thereof, may summon and subpoena witnesses to appear and testify and to produce books, papers and records of any person, company or corporation whenever necessary in the prosecution of any inquiries into matters which the commission may properly consider. Any person who disobeys a subpoena or subpoena duces tecum or refuses to testify when so required by the board, shall be guilty of a misdemeanor.

Section 38. Penalties for wilfully producing false statements or evidence, or for testifying falsely are those prescribed for perjury.

Section 39. Vacancies caused by the death, resignation or removal of the appointive members are filled by the governor, secretary of state and state treasurer for the unexpired term of the member whose office is thus made vacant.

Section 42. The board meets on the second Wednesday of each month to pass upon all matters properly coming before it for consideration and the costs and expenses of the board are audited upon proper vouchers.

Section 44. Upon completion of the review of the roll prepared as in this act, the board of tax commissioners subscribes to an oath to the effect that all property has been assessed and equalized at its true cash value and that it has not knowingly ignored this mandate of the law.

Section 45. It is unlawful for any member to accept any free pass, frank or gratuity from any person or corporation liable to assessment under this act. Any member violating this provision forfeits his office.

Sections 46-47 require certain corporations to maintain an office within the state and define the terms "persons," "company," "corporation" and "association."



Section 51. The sum of twenty thousand dollars or as much thereof as may be necessary to carry this act into effect, is hereby appropriated.

### TEXAS.

Laws of 1907, Chapter 17. The state tax board of Texas is composed of the comptroller of public accounts, the secretary of state and a third member to be known as the tax commissioner of the state of Texas. The commissioner is appointed by the governor for a term of two years and receives an annual salary of two thousand five hundred dollars. A majority of the board constitutes a quorum. The tax commissioner executes a bond in the sum of ten thousand dollars.

Section 4. The powers and duties of the board are:

1. To examine all books and records and examine such witnesses and persons as may be necessary to secure compliance with the laws of assessment and taxation in the state.

2. To make diligent inquiry into the systems of taxation in other states and to make such recommendations for changes in the tax laws of Texas as may from time to time seem expedient.

3. To report to the legislature at each session the total amount of revenue collected in the state for all purposes, the sources thereof, the amounts lost through defective collection, and such other information relating to its proceedings, since the last preceding report, as may be desirable.

Section 5. The board or any member thereof, or the state revenue agent, must visit, at least once in each year, such counties of the state as the board or the governor may direct, for the purpose of investigating the operation and methods of enforcing the revenue laws.

Section 6. The board, or any member, may subpoena witnesses, issue subpoenas duces tecum and have access to any books, records or documents in the possession of any person, firm or corporation, when necessary and proper in the prosecution of any injury under or the execution of any provision of this act.

Section 7. Any person disobeying any subpoena or order of the board may be punished for contempt by the board.<sup>1</sup>

Railroad, ferry, bridge and turnpike companies doing business in the state are required to make detailed reports to the tax commissioner to be used as a basis for the taxation of their intangible assets. Upon receiving such statements the tax commissioner endorses thereon the date of the receipt thereof and then affixes his signature. The board then examines such statements and if deemed insufficient, the necessary additional statements are forthwith demanded. The board then proceeds to value the intangible assets of the persons aforesaid. The board apportions the taxes thus due among the different counties.

An annual appropriation of eight hundred dollars is made for the salary of secretary and stenographer for not more than four months in each year.

#### VERMONT.

The office of commissioner of state taxes was established by Act number 3 of the Laws of 1892.

The commissioner of state taxes in Vermont is concerned chiefly with the administration of the laws relating to the taxation of corporations and of legacies and inheritances. He appraises the property of railroad companies, steamboat, car and transportation companies, sleeping, parlor and dining car companies, telephone and telegraph companies, express companies, insurance, surety and guaranty companies, and of building and investment companies. He receives certain returns for a basis of taxation from domestic and foreign corporations. Depositors in national banks also must make returns to the commissioner relating to their deposits and the registrar of probate and the local lister of property report certain facts to him relating to the estates of decedents.

Public Statutes, 1906, section 688. The governor biennially, during the session of the general assembly, with the advice and consent of the senate, appoints a commissioner

<sup>1</sup>Contempt. The legislature cannot confer upon the board the power to punish witnesses for contempt who fail to appear and testify before it or under its direction. *Langenberg v. Decker*, 131 Ind. 471, 31 N. E. 90, 16 L. R. A. 108.

of state taxes, who holds office for two years or until his successor is appointed and qualified. The said commissioner reports biennially to the general assembly.

Section 689. The commissioner may examine any book, paper or record of a person or corporation required by this chapter to make returns and pay a tax, concerning any matter as to which information is required to carry out the provisions of this chapter.

Section 690. The commissioner may require any judge of the supreme court or superior judge to designate a master in chancery who may cite any officer, stockholder, agent or clerk of a corporation or person required by this chapter to make returns or pay a tax, to appear before him for examination upon oath by said commissioner or to produce any book or record concerning any matter as to which information is required to carry out the provisions of this chapter.

Section 693. Any person who refuses to testify or appear or to show the tax commissioner such books and records as he may call for shall be fined not less than five hundred dollars nor more than five thousand dollars.

Section 694. If the commissioner finds that owing to any cause a tax paid is too small, he assesses an additional tax, sufficient to cover the deficit, and must forthwith notify the parties so assessed. If the additional assessment is not paid within thirty days the usual penalties attach.

Section 696. The tax commissioner prepares the blanks required for the statement of facts by persons or corporations called for in this chapter, and must, on request, furnish the same to persons or corporations required to pay such tax. He may also furnish said blanks to persons who have acted as agents or brokers of foreign insurance or guaranty companies who have solicited or done insurance business within this state.

Section 697. Every person or corporation to whom the commissioner sends such blanks must fill out the same and answer all interrogatories contained therein. The same

must be subscribed and sworn to by the person or corporation, by its clerk, treasurer or other officer, making such return.

### WASHINGTON.

Laws of 1905, Chapter 115, section 1. The state board of tax commissioners consists of three members who must possess knowledge of the subject of taxation. They are appointed by the governor with the advice and consent of the senate and hold office for four years. The governor may remove a member for any cause and no review of such proceedings is allowed. Vacancies are filled by the governor.

No commissioner may hold any other office under the government of the United States, of the state or of any county or municipal corporation within the state; he must devote his entire time to the service of the state in performing the duties prescribed in this act.

Each commissioner must furnish a bond, payable to the state of Washington, in the sum of ten thousand dollars, with security to be approved by the governor, conditioned on the faithful performance of his duties, and subscribe to an oath of office.

Section 2. The commissioners shall have the power and it shall be their duty:

1. To have general supervision of the system of taxation throughout the state.<sup>1</sup>

2. To have general supervision over assessors and county boards of equalization and the determination and assessment of the taxable property in the several counties, cities and towns of the state that all taxable property in this state shall be placed upon the assessment rolls and equalized between persons and between the different municipalities and counties therein.

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<sup>1</sup>In the case of the Great Northern Railroad Company v. Snohomish County and in another case previously decided, it was held that the phrase "general supervision," conferred more than advisory power upon the board, and that instructions sent from the board to assessors must be obeyed; and it is immaterial that the board deemed its directions merely advisory. 102 Pac. 881.

3. To superintend the enforcement of the collateral inheritance tax law.

4. To confer with, advise and direct assessors, boards of equalization and county commissioners as to their duties under the laws of the state, and direct what proceedings and prosecutions shall be instituted to enforce the penalties and liabilities of public officers or persons for failure to comply with its provisions governing the return, assessment and taxation of property, and cause complaint to be made against assessors for their removal from office for official misconduct or neglect of duty. To carry out the provisions hereof the board, or any member, may call upon county attorneys or the attorney general to commence and carry on prosecutions for violations of the laws relating to the assessment and taxation of property.

5. To prescribe all forms and blanks to be used in the assessment and collection of taxes and to recommend to the legislature such changes as may be deemed economical to the state and counties and all such recommendations shall be accompanied by bills for this end.

6. The board has power to require county and city officers to report information as to assessment of property, the equalization of taxes, the expenditure of public funds and such other information as the commission may request.<sup>1</sup>

7. To require individuals, partnerships, companies, associations and corporations to furnish data relating to taxes, earnings, expenses, value of property, capital, funded debt and other facts so as to ascertain the relative burdens borne by different classes of property in the state.

8. To summon witnesses to testify upon earnings, taxes or any matter deemed material to an investigation of the tax system and the expenditure of public funds for state, county, district or municipal purposes.

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<sup>1</sup>An attempt to comply with this provision has been practically fruitless, owing to the lack of comprehensive and uniform methods in keeping public accounts. Methods of accounting in many cases are obsolete and unintelligible. A uniform system should be provided. Biennial Report, State Tax Commission, 1909, p. 41.



9. To visit the counties of the state and investigate the methods of tax assessors and discover wherein laws are defective or improperly administered.

10. To administer oaths to witnesses. Falsely testifying shall be punished like perjury.

11. To investigate all complaints of illegal, unjust or excessive taxation, and it shall endeavor to ascertain to what extent the system is unequal or oppressive in its operation.

12. The county assessor furnishes the commission on the completion of his annual assessment roll a list of all companies, associations, individuals, banks or corporations whose assessed valuation exceeds three thousand dollars, together with the class of property and the valuation placed on the same for assessment purposes.

Section 3. The board or any member thereof tests the work of county assessors during the progress of the assessment or when deemed necessary, and have all the rights and powers of the assessors for the examination of persons and property and for the discovery of property subject to taxation. If property has escaped assessment and the board discovers the same, the fact is laid before the county assessor of the proper county and if the assessor neglects or refuses to correct the assessment, the board reports the fact in writing to the clerk of the board of county commissioners for review and examination at the meeting of the county board for the equalization of taxes.

The members of the state board of tax commissioners are ex-officio members of the state board of equalization and the secretary of the former acts as secretary of the latter board.

Section 4. The board of tax commissioners, at least sixty days before the meeting of the legislature, lays before the governor in the form of a report such recommendations for changes in the tax laws as may be deemed advisable, such recommendations to be accompanied by carefully drawn bills necessary to carry the same into effect. The board makes investigations into the working of the tax laws of this and other states and foreign countries.

Section 5. One copy of the report is sent to each member of the legislature at least twenty days before the opening of the session.

Section 6. The members of the board organize at the state capitol and adopt and use an official seal. The board may appoint a secretary who receives an annual salary not in excess of eighteen hundred dollars, and it may appoint such other clerks as may be necessary, not exceeding three in number, the aggregate salary of whom may not exceed two thousand seven hundred dollars. The board may hold sessions at any place in the state when deemed necessary to facilitate the discharge of its duties. Each member of the board receives an annual salary of three thousand dollars and traveling expenses necessarily incurred while engaged in discharging the duties of his office. (As amended by section 2, chap. 220, Laws of 1907.)

The board is required to assess annually the property of railroad companies and telegraph companies doing business in the state. The board also ascertains the gross receipts of private car companies and express companies for the purpose of taxation. The board also has sundry duties to perform relating to the collection of the inheritance tax. (See Laws of 1907.)

### WEST VIRGINIA.

A special tax commission was appointed in 1901. It made its report in 1902.

Laws of 1904, Extra Session, chapter 4, section 1. The governor, by and with the advice and consent of the senate, appoints one qualified elector of the state to act as state tax commissioner for a term of six years, at a salary of four thousand dollars per annum. He is not eligible to re-appointment. The person so appointed must subscribe to the constitutional oath of office and give bond in the sum of five thousand dollars with security to be approved by the governor. He receives his actual and necessary traveling expenses, not exceeding one thousand dollars in any one year, and such clerical assistance as may be necessary.

Section 2. The tax commissioner must see that all laws concerning the assessment and collection of taxes and levies, whether of the state, or of any county, district or municipal corporation thereof, are faithfully enforced. He advises the auditor as to all forms and blanks for the use of assessors.

He must from time to time visit the several counties and municipal corporations of the state, inspect the work of assessors, justices, prosecuting attorneys, clerks of court, sheriffs, constables, collecting officers and commissioners of school lands and confer with them in regard to their work. He may require such action of any of the said officers as will tend to just assessments throughout the state and diligent collection of taxes and fines. Upon request from any officer concerned with the assessment and collection of taxes he must give information and advice.

In case of the failure of any assessor or collecting officer in the discharge of any duty imposed upon him by law, the tax commissioner must proceed to enforce the penalties provided in each case, including in any proper case the removal of the officer. He may to this end appear before any court having jurisdiction. He may also be heard before any court, in any proceeding in which abatement of taxes is sought.

Section 3. The tax commissioner must, when requested by the board or the governor, attend the meetings of the board of public works when considering matters of assessment or revenue and give such assistance as may be required. In case of appeal from any assessment made by the board to any court the tax commissioner must appear and protect the interest of the state or of any county, district or municipal corporation which may be interested. He performs such duties relating to the insurance of public buildings as the governor may direct, and, upon the request of the auditor or treasurer, assists such officer in any matter relating to the revenues of the state.

Section 4. In cases in which the tax commissioner may appear, the prosecuting attorney of the county gives his assistance without further compensation.

Section 5. The tax commissioner prepares biennially and transmits to the governor on or before the first day of

October next preceding the regular session of the legislature, and at such other times as the governor may require, a report setting forth his official transactions during the preceding period not covered by any former report. He must also therein give such information concerning the working of the tax laws of the state and recommend such changes in the laws relating to the assessment and collection of taxes as he may deem advisable. He must report upon any special matter referred to him, by the governor, auditor or board of public works.

The tax commissioner may require from any county, district, municipal or other officer, on forms prescribed by the said commissioner, such annual or other reports as shall enable him to ascertain the assessed and equalized valuations of all property listed for taxation throughout the state, the amount of taxes assessed, collected and returned delinquent and such other matters as the commissioner may call for. (As amended by section 5 of chapter 80, Laws of 1907.)

Section 19. The tax commissioner communicates to the circuit court and the prosecuting attorney of the county, any instance of misconduct or neglect of official duty on the part of any assessor, justice, prosecuting attorney, clerk of court, sheriff or constable of such county and any evidence thereof of which he may be cognizant; the court investigates the same, and if the charges are found true, such person forfeits a sum of money not less than one hundred dollars or more than five hundred dollars and is removed from office. (As amended by section 19 of chapter 80, Laws of 1907.)

Section 20: The tax commissioner must furnish the assessors with such printed forms for the personal property books and the land books, and such lists of taxable subjects to be furnished by assessors to persons chargeable with taxes, as will procure a perfect assessment of all persons and property subject to taxation in the state.

The tax commissioner must, by letter or printed circular, give such information to assessors respecting their duties as to him seem judicious. Any assessor, failing to obey such instructions, in so far as they are not contrary to law, forfeits a sum of money as prescribed in the preceding



section, and upon being convicted a second time of a like offense, is removed from office. (As amended by section 20, chapter 80, Laws of 1907.)

Laws of 1905, Chapter 35, Section 84. The owners or operators of railroads, car lines, telegraph and telephone lines and pipe lines are required annually to return in writing to the board of public works certain reports which must be delivered to the tax commissioner. If any owner or operator fails to make such return the tax commissioner must take the necessary steps to compel the making thereof and to enforce the penalties by law attached for such failure.

Laws of 1905, Chapter 35, section 91. The tax commissioner tabulates, collects and compares all returns made to the board of public works before laying the same before said board, and if such returns are found by him to be defective, insufficient or not in compliance with law, he compels such person to make the returns in compliance with law.

Chapter 36, section 42. If any person desiring a state license of any kind be dissatisfied with the amount of tax assessed thereon as stated in the certificate of the clerk of the county court, or with any decision of the clerk respecting such license, or if any person be aggrieved by the assessment of a license tax, he may apply to the tax commissioner for a review of the decision of the clerk. The commissioner reviews the action of the clerk and affirms the same if found to be in accordance with law and reverses it if contrary to law, and in the latter case he issues a certificate for such license on such terms as may be required by law. Such license may be revoked by the tax commissioner if the person does not within ten days comply with the requirements of the decision.

Section 70. The clerk (of the county court), auditor or the tax commissioner may examine under oath any applicant for a license to carry on a brewery or distillery, touching the productivity of such brewery or distillery, and he may examine the books of such persons and institute other necessary inquiries.

Laws of 1908, Extra Session, Chapter 9, section 2. The tax commissioner may appear before the county court at its



session to make up the statement relating to the fiscal affairs of the county, and object to any estimate, or proposed levy, or any item thereof, of such board.

Section 10. The tax commissioner prepares forms and instructions for making up the statement of the county court relating to the fiscal affairs of the county; for making up the statement of the board of education relating to the fiscal affairs of every district or independent school district, and for preparing the statement to be made by the common council of every municipal corporation relating to its fiscal affairs, the contents of all of which statements are prescribed in sections 3, 4 and 5 of this chapter.

Chapter 15, section 4. The tax commissioner prescribes the forms of books to be used by the sheriff, clerks and prosecuting attorney in which a record is kept of all fees, commissions, costs, allowances, percentages, penalties, compensations to be collected by them as provided by law. These books may be examined by the tax commissioner. The tax commissioner also examines the statement of the county court, made after examining the books kept as aforesaid, and if he finds such statement faulty in any material particular he must advise the county court accordingly, whereupon said statement is reheard and redetermined by said court and at such hearing the tax commissioner or his agent may be present.

Section 8. The tax commissioner is in certain cases authorized to prosecute sheriffs, clerks of county court, clerks of circuit courts and prosecuting attorneys on bonds by them given, when they fail in the prompt payment of fees and fines collectible by them under this act.

Chapter 33. The tax commissioner is by this chapter made, ex officio, the chief inspector and supervisor of public offices. He is required to formulate, prescribe and install a system of uniform accounting and reporting for public officers.

Appropriation for the expenses of the tax commission in 1909, twenty thousand dollars; appropriated for the department of public accounting, 1909, eight thousand dollars.

## WISCONSIN.

Chapter 340, Laws of 1897, authorized the appointment of the first tax commission in Wisconsin to hold office until December 31, 1898. Its report was submitted to the legislature of 1899.

Chapter 206, laws of 1899, created the office of commissioner of taxation and first and second commissioners of taxation to hold office for a period of ten years.

Chapter 380, Laws of 1905. This chapter creates a tax commission to succeed and take the place of the commissioner and assistant commissioners of taxation and the state boards of assessment composed of said commissioner and assistant commissioners existing in Wisconsin at the time of the passage of this act. The commission is composed of three members, appointed by the governor, by and with the advice and consent of the senate. The tenure of office of each commissioner, after the expiration of his first term, is eight years, except in case of vacancy. Vacancies are filled by the governor for the unexpired terms, subject to confirmation by the senate. Each commissioner subscribes to an oath of office and receives an annual salary of five thousand dollars.

Section 4. So far as practicable the commission may not be composed entirely of persons of the same political faith and each member must possess knowledge of the subject of taxation and skill in matters pertaining thereto. No person appointed as commissioner may hold any other office under the laws of this state or under the government of the United States or of any other state. Each commissioner devotes his entire time to the duties of the office and no commissioner may hold any position of trust or profit, engage in any occupation or business interfering with or inconsistent with his duties, or serve on or under any committee of any political party.

Section 6. The commission is required to meet and organize at the capitol and a majority constitutes a quorum for the transaction of business. The commission must be in continuous session, except on legal holidays and Sundays,

and may hold sessions at any place other than the capitol when deemed necessary to facilitate the performance of its duties.

Section 7. The commission may appoint a secretary at a salary of not more than two thousand dollars per annum, and three clerks who may not receive more than one thousand five hundred, one thousand two hundred and one thousand dollars per annum, respectively. One of these must be a stenographer. The commission employs such other persons as experts and assistants as may be necessary to perform the duties required, and determines their compensation. The commission has power to make all needful rules, not inconsistent with law, that may be necessary.

Section 8. The commission has an office in the capitol and is supplied with furniture, books, periodicals, stationery and maps. The commissioners, secretary and clerks receive from the state their actual and necessary traveling expenses while traveling on the business of the commission.

Section 9. It shall be the duty of the commission, and it shall have power and authority:

1. To have general supervision over the administration of the assessment and tax laws of the state, over assessors, boards of review and supervisors of assessment, and over county boards in the performance of their duties as county boards of assessment, to the end that all assessments of property be made substantially just and equal at its true value in compliance with law.

2. To confer with, advise and direct assessors, boards of review, county boards of assessment and supervisors of assessment as to their duties under the statutes of the state.

3. To direct proceedings, actions and prosecutions to enforce the laws relating to the penalties and liabilities of public officers and persons for failure to comply with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against assessing or taxing officers and boards to the proper circuit judge for their removal from office for official misconduct or neglect of duty.

4. To require district attorneys to assist in the commencement and prosecution of actions for penalties, punishments and removals for violations of the laws of the state relating to assessment and taxation, in their respective districts.

5. To require town, city, village, county and other public officers to report information as to the assessment of property, the collection of taxes, receipts from licenses, and other sources, the expenditure of public funds for all purposes, and such other information as may be needful in the work of the commission, in such forms and upon such blanks as the commission may prescribe.

6. To require individuals, partnerships, companies, associations and corporations to furnish information concerning their capital, funded debt, current assets and liabilities, taxes and all other facts which may be needful to enable the commission to ascertain the relative burdens borne by different kinds of property in the state.

7. To summon witnesses to appear and give testimony and to produce records, books and documents relative to any matter which the commission has authority to investigate.

8. To cause depositions of witnesses residing within or without the state to be taken on notice to the interested party, in the same manner as depositions are taken in the circuit court, relating to any matter the commission has authority to investigate.

9. To visit the counties in the state unless prevented by other official duties, for the investigation of the work and methods adopted by local assessors and other taxing or assessing officers and boards in the assessment, equalization and taxation of real and personal property.

10. To investigate carefully where evasion or violation of the laws of assessment and taxation is alleged, complained of or discovered, and to ascertain wherein existing laws are defective or improperly administered.

11. To investigate the tax system of other states and countries and to formulate and recommend such legislation as may be deemed expedient to prevent evasion of assessment and to secure equal taxation throughout the state.

12. To inquire into the system of accounting of public funds in use in towns, cities, villages and counties, and devise and prescribe a uniform system of accounting of the receipts and disbursements of the public funds in the municipalities of the state.

13. To consult and confer with the governor of the state upon the subject of taxation and the administration of the tax laws, and furnish him with such assistance and information as he may require.

14. To transmit to the governor and each member of the legislature, thirty days before the meeting of the legislature, the report of the commission, showing the value of all the taxable property in the state in tabulated form, with recommendations for improvement in the system of taxation, together with such measures as may have been formulated for the consideration of the legislature.

Laws of 1905, Chapter 259, section 1. The tax commission may, upon complaint and after hearing satisfactory proof that the assessment in any district is not in substantial compliance with law, and that the public interest would be furthered by a reassessment, order a reassessment by such person or persons as the commission appoints for that purpose. Notice of the time and place of such hearing is mailed to the chairman and clerk of the town, president and clerk of the village or mayor of the city which constitutes or includes such assessment district, not less than eight days before the time set for such hearing. The order directing such reassessment is sent to the supervisor of assessment of the county in which such district is located, and to each person appointed to make such reassessment. The notice must contain the names of the said appointees.

Chapter 474. The assessment of taxable property in the several assessment districts of any county may be reviewed by the state board of assessment,<sup>1</sup> upon appeal in behalf of any town, city or village from the assessment or determi-

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<sup>1</sup>By chapter 53, Laws of 1909, the state board of assessment is abolished and its powers are conferred upon the state tax commission as such.



nation of the county board, and the board of assessment may add to or subtract from the amounts determined by the county boards if it appears that injustice has been done.<sup>1</sup>

Chapter 493. The state board of assessment is by the provisions of this chapter required to assess the property of all street railways, electric light, heat and power companies operated in connection with street railways within the state, for taxation purposes.

Chapter 494. The state board of assessment is required to make an annual assessment of the property of all telegraph companies within the state for taxation purposes.

Chapters 111, 112, 113 and 114 of the laws of 1899, chapter 35, laws of 1903 and chapter 477, laws of 1905, require the state board of assessment to assess express, sleeping car, freight line and equipment companies.

Chapter 315, laws of 1903, as amended by chapter 216, laws of 1905, requires the state board of assessment to assess all railroad property and requires railroad companies to make complete reports to the board in order that the actual value of their properties may be ascertained.

Laws of 1905, Chapter 380, section 10. Oaths to witnesses may be administered by the secretary or any member of the commission. In case a witness fails to obey any summons to appear before the commission or refuses to testify before it or produce records, books or documents when required to do so, the attorney general institutes proceedings in the proper circuit court to compel obedience to any summons or order of the commission or to punish witnesses for any such failure or refusal to appear. Penalties for testifying falsely to any material matter under the consideration of the commission are those prescribed for perjury. In the discretion of the commission officers who serve subpoenas or summons and witnesses attending, receive the same compensation as officers and witnesses in circuit courts.

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<sup>1</sup>The fact that such power of review is vested in the commission makes the matter of appeal less cumbersome than the former proceeding in circuit court and with its superior facilities for acquiring information the commission is presumably better qualified to conduct the necessary investigation than appointees of the court. Report of Commission, 1907, p. 11.

Laws of 1901, Chapter 237, section 1. The commissioner and assistant commissioners of taxation shall constitute a state board of assessment to assess the general property of the state for the levying of state taxes.<sup>1</sup>

Section 2. This board has access to all documents and records on file in any department of state as well as to all documents, papers, books and records on file or of record in the counties, towns, villages, cities and assessment districts of the state.

Section 3. The state board of assessment meets on the third Wednesday in May of each year at the capitol and continues in session for such period as may be necessary—not later than the first day of September—for the valuation of the property of the state. The secretary of state lays before it such facts, figures and statistical information relating to valuations of property in the several counties as he may possess. The board then assesses all property in the state as nearly as possible at its true value. Any errors of over or under assessment may be corrected when the next state assessment is made. The assessment list when completed is transmitted by the board to the secretary of state.

Section 4. The board may prescribe rules and regulations for the making and filing of complaints by counties, not inconsistent with the laws of the state.

Section 5. The board has authority to direct that fees for the attendance of witnesses and officers and other expenses for evidence shall be paid by the county making the complaint to the board which is determined adversely to such county, as justice may require, and when such costs and fees are directed to be paid by any county the amount thereof is certified to the secretary of state and by him apportioned to such county with the state taxes and levied and collected upon the property of the county with said state taxes.

Laws of 1907, Chapter 522. The commission collects statistics of recorded real estate sales in each county and of the assessed value of the lands included in such sales, to be compiled by the assessment districts and counties in tabulated form.

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<sup>1</sup>See note page 86.

## WYOMING.

Laws of 1909, Chapter 66. One tax commissioner is appointed by the governor, by and with the consent of the senate, for a term of four years. His annual salary is two thousand five hundred dollars. He must possess knowledge of the subject of taxation and training and skill in matters pertaining thereto. He may hold no other office under the laws of this state or of the United States. He may hold no position of trust or profit or engage in no business or pursuit inconsistent with his duties, or directly or indirectly serve on or under any committee of any political party or take part in any political campaign. He must give bond to the state in the sum of ten thousand dollars.

Section 5. Powers and duties of the commissioner:

1. To exercise general supervision over the administration of all tax laws, over all county, town and city assessors and boards of equalization, levy and assessment; to require the aforementioned administrative officers under penalty of removal from office to assess all property at its full cash value.

2. To confer with, advise and direct assessors, boards of commissioners and of equalization and others making levies and assessments of taxes, as to their duties.

3. To enforce penalties and forfeitures against taxing or assessing officers, and persons or agents of corporations who fail or neglect to comply with the provisions of law relating to revenue and taxation. The commissioner may direct county and prosecuting attorneys to commence and prosecute actions for removal of officers and punishment for violations of the laws relating to assessment and taxation.

4. To require town, village, city, county or other public officers to report information relating to the assessment of property and collection of taxes together with such other information as he may deem advisable to call for. The commissioner must furnish the blanks.

5. To require individuals, co-partnerships, companies, associations and corporations to report information as to their capital stock, funded debt, value of property, taxes

and other charges, and all other information necessary to enable the commissioner to ascertain the relative burdens borne by different classes of property in the state. In case of objections to the assessments as levied the commissioner may look into all the surrounding circumstances.

6. To subpoena witnesses to give testimony, and to produce books and records relating to any tax matter.

7. To take, or cause to be taken, depositions of witnesses in the same manner as depositions in district court are taken.

8. The commissioner must visit every county in the state and inquire into the method of administering the laws relating to the levy, assessment and collection of taxes, and ascertain if taxing officers comply therewith.

9. To investigate the tax systems of other states and recommend to the legislature such changes in the laws relating to assessment and taxation in Wyoming as he deems expedient.

10. To consult with the governor and the state board of equalization on matters relating to taxation and to furnish them such information as they may call for.

11. To report on the first of November of each even numbered year to the governor and the state board of equalization and on the first of January in each odd numbered year to the legislature, the work of the commissioner during the preceding year, showing all taxable property in the state and the value of the same.

12. To require the county auditors to file annually complete abstracts of all real and personal property in their respective counties and also typewritten copies of the proceedings of the county boards of equalization.

13. To order reassessments when deemed necessary by said commissioner.

14. To require county assessors to place upon the assessment rolls property which may have escaped assessment in previous years.

15. To inquire into the causes of all complaints and to institute the proper proceedings to remedy the same.

16. To administer oaths to witnesses in any matter before the commissioner and to report to the county prosecut-

ing attorney the name of any witness who refuses or fails to testify as required. The county attorney thereupon institutes proceedings to compel obedience from the witness.

17. The commissioner keeps a seal and an accurate record of his official proceedings.

18. The commissioner has free access to all county, city or state records.

19. The commissioner must appraise all property of railroads except such real estate as is locally assessed according to the constitution of the state; all telephone and telegraph lines and property; the property and income in this state of all express companies; the property of sleeping car companies and private car lines doing business in this state; the value and gross products of all mines within the state, and submit such appraisement to the state board of equalization in August of each year. For the purposes named herein he has access to books, records, papers and documents, and he may subpoena witnesses in order that he may ascertain the true value of property.

Penalties are prescribed for refusing to appear before the commissioner or to permit the inspection of books and records as provided in the act.



## SUMMARY

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### MEMBERS.

#### 1. NUMBER.

One in Connecticut, Maryland, Massachusetts, Vermont, West Virginia and Wyoming.

Three in Alabama, Kansas, Michigan, Minnesota, New York, North Carolina, Texas,<sup>1</sup> Washington and Wisconsin.

Five in Indiana, New Jersey and Oregon.

#### 2. TERMS OF OFFICE.

Two years in Texas and Vermont.

Three years in Massachusetts and New York.

Four years in Alabama, Connecticut, Indiana, Kansas, Oregon, Washington and Wyoming.

Five years in New Jersey.

Six years in Michigan, Minnesota, North Carolina and West Virginia.

Eight years in Wisconsin.

#### 3. QUALIFICATIONS.

None prescribed in Connecticut, Maryland, Massachusetts, New York, Texas and Vermont.

(A) Must possess knowledge of or be skilled in matters pertaining to taxation in Alabama, Kansas, Minnesota, Oregon, Washington, Wisconsin and Wyoming.

(B) May hold no other office in Alabama, Kansas, Minnesota, Washington, Wisconsin and Wyoming.

(C) Non-partisan in Alabama, Indiana, Kansas, Minnesota, Oregon, Wisconsin and Wyoming.

(D) Freeholder in Michigan.

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<sup>1</sup>The state board of taxes is composed of three members, two ex-officio and a third who is known as the tax commissioner.

(E) Qualified elector in North Carolina and West Virginia.

(F) Attorney at law, chairman of the board must be counsellor at law in New Jersey.

4. SALARIES OF COMMISSIONERS.

\$2,000 in Vermont.

\$2,400 in Alabama.<sup>1</sup>

\$2,500 in Kansas, Maryland, Michigan, Oregon, Texas, and Wyoming.

\$3,000 in Connecticut, Indiana, North Carolina<sup>2</sup> and Washington.

\$3,500 in New Jersey.<sup>3</sup>

\$4,000 in West Virginia.

\$4,500 in Minnesota.

\$5,000 in Massachusetts, New York and Wisconsin.

POWERS AND DUTIES.

*Original Assessments.*

The state tax commissions, or commissioners, assess, in the first instance, some public utilities or other classes of property in Connecticut, Indiana, Kansas, Maryland, Massachusetts, Michigan, New York, Oregon, Vermont, Washington, Wisconsin and Wyoming.

*Equalization.*

They equalize or review, or may, on appeal, equalize or review, local assessments in Alabama, Indiana, Kansas,<sup>4</sup> Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Washington, West Virginia, Wisconsin and Wyoming.

*Reassessment.*

They have power to order or make reassessments when necessary in Alabama, Minnesota, New Jersey, Wisconsin and Wyoming.

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<sup>1</sup>Chairman, \$3,000.

<sup>2</sup>The board in North Carolina also acts as a corporation commission.

<sup>3</sup>Chairman, \$5,000.

<sup>4</sup>The state tax commission also has power to require any county board of equalization to reconvene and may order it to raise or lower the valuation of any property when necessary to secure compliance with law.

*Corporations.*

They have power to examine books of firms and corporations, or to require them to report information relating to their financial affairs, in Alabama, Indiana, Kansas, Michigan, Minnesota, New Jersey, North Carolina, Oregon, Texas, Vermont, Washington, Wisconsin and Wyoming.

*Scope of Authority.*

They have general supervision over the assessment and taxation of property in the state, in Alabama, Kansas, Minnesota, North Carolina, Oregon, Washington, Wisconsin and Wyoming.

*Local Assessors.*

They confer with, aid or direct local assessors, in Alabama, Indiana, Kansas, Massachusetts, Minnesota, New Jersey, New York, North Carolina, Oregon, Washington West Virginia Wisconsin and Wyoming.

*Visit Counties.*

They visit the several towns or counties of the state to observe the manner in which the tax laws are administered, in Alabama, Connecticut, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New York, North Carolina, Oregon, Texas, Washington, West Virginia, Wisconsin and Wyoming.

*Enforce Laws.*

They enforce laws and penalties relating to assessment and taxation in Alabama, Indiana, Kansas, Massachusetts, Minnesota, North Carolina, Oregon, Washington, West Virginia, Wisconsin and Wyoming.

*Summon Witnesses.*

They have power to summon or subpoena witnesses to testify before them, or to administer oaths, in Alabama, Connecticut, Indiana, Kansas, Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Texas, Vermont, Washington, West Virginia, Wisconsin and Wyoming.

*Blanks and Forms.*

They prescribe books, blanks or forms for the use of taxing officers, in Alabama, Connecticut, Indiana, Kansas, Massachusetts, Michigan, Minnesota, New York, Oregon, Washington, West Virginia and Wisconsin.

*Back Assessments.*

They have power to assess or order assessed property that has escaped assessment in previous years, in Michigan, North Carolina, West Virginia and Wyoming.

*Uniform Accounting.*

They devise a uniform system of keeping accounts for towns, cities and counties in Kansas, West Virginia and Wisconsin.<sup>1</sup>

**EQUALIZATION of taxes in states not having tax commissions.**

There are state boards of equalization with more or less comprehensive powers of review of local or county assessments in California, Colorado, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee and Utah.

There is no state equalization, strictly so-called, in Arkansas, Delaware, Florida, Mississippi, Pennsylvania, and Nevada.

There is no equalization of assessments, strictly so called, in Rhode Island, Virginia and Georgia.

*Members.*

State boards of equalization are composed of state officers, ex-officio, in Colorado, Idaho, Iowa, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota and Tennessee.

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<sup>1</sup>They may require certain reports relating to finances from towns and cities, on forms prescribed by the commissions, or commissioners, in Connecticut, Oregon, Washington and Wyoming. (See footnote, page 76.)

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They are elected by popular vote in California, Illinois, Louisiana and Ohio.<sup>1</sup>

The board is elected by the legislature in Maine.

The state board is composed of ex-officio members of the county boards in South Carolina.

They are appointed (1) by the governor in Kentucky and Utah; (2) by the supreme court in New Hampshire.

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<sup>1</sup>Ohio has a decennial state board whose members are elected by popular vote. But the board that annually equalizes the assessments of railroad property and bank shares is composed of state officers ex officio.





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